



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

पृष्ठ 21

शिमला, शनिवार, 29 सितम्बर, 1973/7 आश्विन, 1895

[संख्या 39]

विषय-सूची

भाग 1	वैधानिक नियमों को छोड़ कर हिमाचल प्रदेश के राज्यपाल और हिमाचल प्रदेश हाई कोर्ट द्वारा अधिसूचनाएं इत्यादि	1552—1556
भाग 2	वैधानिक नियमों को छोड़ कर विभिन्न विभागों के अध्यक्षों और जिला मैजिस्ट्रेटों द्वारा अधिसूचनाएं इत्यादि	1556—1559
भाग 3	अधिनियम, विधेयक और विधेयकों पर प्रवर समिति के प्रतिवेदन, वैधानिक नियम तथा हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश हाई कोर्ट, फाइनेंशियल कमिशनर तथा कमिशनर आफ इन्कम-टैक्स द्वारा अधिसूचित आदेश इत्यादि	1560—1569
भाग 4	स्थानीय स्वायत्त शासन: म्युनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड, नोटिफाइड और टाउन एरिया तथा पंचायत विभाग	1569
भाग 5	वैयक्तिक अधिसूचनाएं और विज्ञापन	1569—1570 तथा 1601—1602
भाग 6	भारतीय राजपत्र इत्यादि में से पुनः प्रकाशन	1571—1600
भाग 7	भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचनाएं तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं	—
—	अनुपूरक	1603—1607

29 सितम्बर, 1973/7 आश्विन, 1895 को समाप्त होने वाले सप्ताह में निम्नलिखित विज्ञप्तियां 'असाधारण राजपत्र, हिमाचल प्रदेश' में प्रकाशित हुईं:—

विज्ञप्ति की संख्या	विभाग का नाम	विषय
No. 1-10/68-Home (A), dated 20th September, 1973.	Home Department	Declaring any employment connected with supply, generation, storage or transmission of electric energy by any authority including the Himachal Pradesh State Electricity Board, Simla Municipal Corporation or any Department of the Government to be the employment to which the Himachal Pradesh Essential Services (Maintenance) Act, 1972 shall apply.
No. 1-10/68-Home (A), dated 20th September, 1973.	-do-	Directing all persons engaged in employment connected with the supply, generation, storage or transmission of electric energy including the Himachal Pradesh State Electricity Board, Simla Municipal Corporation or any Department of the Government not to depart out of the area where such persons discharge their duties.
No. 1-11/70-LSG, dated 28th September, 1973.	Local Self Government Department.	The Himachal Pradesh Municipalities Servants (Punishment, Removal, Suspension and Appeal) Rules, 1971.
No. 5-18/73-LR, dated 27th September, 1973.	Law Department.	The Himachal Pradesh Panchayati Raj (Amendment) Ordinance, 1973 (Ordinance No. 3 of 1973).
No. 5-56/72-SI (Cstt.), dated 28th September, 1973.	Industries Department.	The Himachal Pradesh Printing and Stationery Department Class III (Ministerial & Technical Services) (Recruitment and Promotion and certain Conditions) Rules 1973.
-do-	-do-	The Himachal Pradesh Printing and Stationery Department Class IV Services (Recruitment, Promotion and certain Conditions of Services) Rules, 1973.
No. 4-2/71-CDP (PNT)-II, dated 25th September, 1973.	Panchayati Raj Department.	The Himachal Pradesh Panchayat Samitis (First Amendment) Rules, 1973.

भाग 1—वैधानिक नियमों को छोड़ कर हिमाचल प्रदेश के राज्यपाल और हिमाचल प्रदेश हाई कोर्ट द्वारा अधिसूचनाएं इत्यादि

हिमाचल प्रदेश हाई कोर्ट

NOTIFICATION

Simla-1, the 18th September, 1973

No. HHC. 1-8/71-10223. —In exercise of the powers vested in them by section 439(b) of the Code of Civil Procedure 1908, the Hon'ble the Chief Justice and Judges of the High Court of Himachal Pradesh are pleased to re-appoint/re-appoint for a period of two years from the date of issued of this notification, the following Advocates, as Oath Commissioners, for the places mentioned against their names, for administering oath/affirmations on affidavits to the deponents, under the said Code, in accordance with the terms specified in paragraph 5 of Chapter 12-B, Punjab High Court Rules and orders Vol. IV as applied to Himachal Pradesh.

S. No.	Name	Place and period
1.	Miss Shakuntla, Advocate	For District Headquarter at Simla.
2.	Shri Prem Goel, Advocate	-do-
3.	Shri Gurindra Kumar Gautam, Advocate.	-do-
4.	Shri K. C. Thakur, Superintendent of the Office of District Judge, Simla.	-do-
5.	Shri Kranti Kumar Upadhyia, Advocate.	For District Headquarter at Bilaspur.
6.	Shri J. K. Khosla, Advocate.	-do-

By order of the Court.

KEDARISHWAR,
Registrar.

हिमाचल प्रदेश सरकार

PERSONNEL (A) DEPARTMENT

NOTIFICATIONS.

Simla-2, the 14th September, 1973

No. 3-5/68-Appnt.—The Governor, Himachal Pradesh is pleased to accord sanction to the grant of 60 days earned leave with effect from the date of availing in favour of Shri Mohar Singh Thakur, District Development and Panchayat Officer, Mandi district.

2. Certified that Shri Thakur would have continued to officiate against the post of DD and PO but for his proceeding on leave.

3. Certified that Shri Mohar Singh Thakur will return to duty to the station from where he will proceed on leave mentioned above.

4. The Governor, Himachal Pradesh is further pleased to order that the General Assistant to Deputy Commissioner, Mandi will look after the work of District Development and Panchayat Officer, Mandi in the absence of Shri Thakur on earned leave.

Simla-2, the 14th September, 1973

No. 3-89/71-Appnt.—The Governor, Himachal Pradesh is pleased to accord *ex-post-facto* sanction to the grant of 26 days earned leave with effect from 16th February, 1973 to 13th March, 1973 in favour of Shri S. Nigam, HAS, presently posted as SDO (C), Kalpa, Kinnaur district.

2. Certified that after the expiry of leave Shri Nigam had joined his duties to the station from where he had proceeded on leave.

3. Certified that Shri Nigam would have continued to officiate as SDO (C), Kalpa but for his proceeding on leave for the period referred to above.

4. This supersedes notification of even number, dated 4-8-1973.

A. K. GOSWAMI,
Joint Secretary.

Simla-2, the 14th September, 1973

No. 3-50/70-DP (Appnt).—The Governor, Himachal Pradesh is pleased to accord sanction to the grant of 15 days earned leave with effect from 4-9-73 to 18-9-73, in favour of Shri P. S. Negi, IAS (H. P.) Joint Secretary (Home & GAD) to the Government of Himachal Pradesh, subject to verification of title to leave.

Certified that Shri P. S. Negi is likely to return to duty to the Station from where he proceeds on leave.

The Governor is further pleased to order that during the absence of Shri Negi on leave, Shri A. K. Goswami, IAS (H. P.) Joint Secretary (Personnel) to the Government of Himachal Pradesh shall hold the charge of the post of Joint Secretary (Home and GAD) to the Government of Himachal Pradesh, in addition to his own duties.

U. N. SHARMA,
Chief Secretary.

Simla-2, the 18th September, 1973

No. 8-34/70-SAS (Vol. II).—The Governor, Himachal Pradesh has been pleased to extend the period of deputation of Shri S. R. Sharma, Section Officer, Himachal Pradesh Secretariat, with the Himachal Pradesh University, for a period of one year with effect from the 16th October, 1972 on the same terms and conditions as contained in this Department notification of even number, dated the 2nd May, 1972.

B. R. LAKHANPAL,
Under Secretary.

ADDENDUM

Simla-2, the 18th September, 1973

No. 3-44/71-Appnt.—Please add in Government notification of even number, dated the 8th August, 1973 (in para 1) after the words "with effect from 18th June, 1973 to 10th July, 1973" the words "with permission to prefix 17th June, 1973 being Sunday".

NOTIFICATION

Simla-2, the 22nd September, 1973

No. 3-3/73-DP-Apptt.—The Governor, Himachal Pradesh is pleased to accord sanction to the grant of 13 days earned leave with effect from the 10th to 22nd September, 1973 with permission to prefix and suffix gazetted holidays falling on the 8th, 9th and 23rd September, 1973, in favour of Shri P. I. Suvrathan, I.A.S. (Probationer).

2. Certified that Shri P. I. Suvrathan I.A.S. (Probationer) would have continued to officiate against the post of Assistant Commissioner (under training), District Sirmur but for his proceeding on leave for the period mentioned above.

3. Certified that not later than the time, the Governor formally sanctioned the leave, he then intended to repost Shri P. I. Suvrathan, to the same post from which he proceeded on leave.

A. K. GOSWAMI,
Joint Secretary.

AGRICULTURE AND HORTICULTURE DEPARTMENT NOTIFICATIONS

Simla-2, the 14th/17th September, 1973

No. 16-128/69-Agr. (Sectt).—In partial modification of notification of even number, dated 24th/26th May, 1973 and after considering the applications from affected persons, in accordance with the last para of the aforesaid notification, the Governor, Himachal Pradesh is pleased to allocate the following Agricultural Sub-Inspectors of the Agriculture Department to the Horticulture Department and to order the allocation of equal number of Horticultural Sub-Inspectors to the Agriculture Department as stated against each:—

S. No.	Name of the Agriculture Sub-Inspectors to be allocated to the Hort. Deptt. in order of seniority	Names of Junior most Agrl. Sub-Inspectors of the Hort. Deptt. exchanged with Agr. Sub-Inspectors of the Agr. Department in order of juniority
1.	Sh. Gopal Dass	Sh. Param Dev.
2.	Sh. Inder Singh	Sh. Jai Krishan.
3.	Sh. C. R. Saklani	Sh. Nanak Chand.
4.	Sh. Surat Ram Parkash	Sh. Des Raj.
5.	Sh. Uttam Chand	Sh. Gian Chand.
6.	Sh. Labhu Ram.	Sh. H. R. Saini.
		Sh. Jagat Ram.

The order of allocation of Shri Shiv Singh Chauhan Agricultural Sub-Inspector to the Agriculture Department are hereby cancelled. The allocations now made are final and no further representations will be entertained.

The Governor, Himachal Pradesh is further pleased to order that all the officials holding substantive/permanent posts in the Department of Agriculture and allocated to the Horticulture Department in this order as well as in the earlier order over and above the sanctioned permanent strength, shall continue to hold their lien against the permanent posts in the Department of Agriculture till such times they are adjusted against the permanent posts in the Horticulture Department. This arrangement is intended to ensure that the permanent officials transferred from the

Agriculture Department to Horticulture Department and vice-versa permanently as a result of bifurcation, are left with no permanent posts on which their lien can be retained but this shall not entitle the permanent incumbents of the posts to claim seniority or promotion to next higher posts by virtue of their lien.

S. L. TALWAR,
Deputy Secretary.

Simla-2, the 17th September, 1973

No. 22-10/71-Agr. Sectt. Vol. III.—In supersession of this Department notification No. 22-10/71-Agr. Sectt. Vol. II, dated the 25th June, 1973, the Governor, Himachal Pradesh is pleased to nominate the Chief Engineer, (Operation) and the Executive Officer to the Chief Engineer (Projects) both from the Himachal Pradesh State Electricity Board, as members of the State Ground Water Advisory Board already constituted vide this Department notification No. 22-10/71-Agr. Sectt. Vol. II, dated the 30 May, 1973.

By order,
K. C. PANDEYA,
Secretary.

EDUCATION DEPARTMENT NOTIFICATIONS

Simla-2, the 11th September, 1973

No. 3-46/72-Edu-B.—Whereas it appears to the Governor, Himachal Pradesh that the land is required by the Government at the public expense for a public purpose, namely for the construction of school building at Dhugiari, Kangra district, it is hereby declared that the land described in the specification below is required for the above purpose.

2. This declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894 to all whom it may concern and under the provisions of section 7 of the said Act, the Land Acquisition Officer (Collector) Kangra district is hereby directed to take order for the acquisition of the said land.

3. Plans of the land may be inspected in the office of the Land Acquisition Officer (Collector), Kangra district.

SPECIFICATION

District: KANGRA		Tehsil: KANGRA	
Village	Khasra No.	Total area K. M.	
	Khewat No. 42		
SANORA, P.O.		11	4
GAGGAL,	253 and 254		

Simla-2, the 20th September, 1973

No. 1-370/71-Sectt. Edu.I.—The Governor, Himachal Pradesh is pleased to order the transfer of Shri K. B. Lal Bhatnagar, Principal, B.T.S. Kulu, and to post him as Principal, Government Higher Secondary School Keylong-cum-District Deputy District Education Officer, Lahaul-Spiti district, with immediate effect in the public interest. The Governor, Himachal Pradesh, is also pleased to order that Shri K.B.L. Bhatnagar, Principal-cum-District Deputy D.E.O. Keylong will exercise the powers of District Education Officer for Lahaul-Spiti district with Hqrs. at Keylong.

2. The Governor, Himachal Pradesh is further pleased to order the transfer of Shri B. K. Raina, Principal, Government Higher Secondary School Praggur, Kangra district and to post him as Principal, Basic Training School, Kulu, *vice* Shri K. B. L. Bhatnagar, with immediate effect in the public interest.

By order,
PRAKASH CHAND,
Secretary.

FOREST DEPARTMENT

NOTIFICATION

Simla-2, the 31st August, 1973

No. 8-5/73-SF.—Whereas the owner of the majority of shareholders in the land specified in the following schedule have with a view to the Conservation of Forests thereon, represented in writing to the Collector of Solan district that the said land may be managed on their behalf by the Himachal Pradesh Government as protected forest on such terms as may be mutually agreed upon.

Now, therefore, the Governor of Himachal Pradesh in exercise of the powers conferred by section 38 of the Indian Forest Act, 1927, is pleased to declare that sections 30, 32, 33, 34 and 68 of the said Act shall apply to the lands specified in the following schedule.

SCHEDULE

District: SOLAN

Tehsil: KANDAGHAT

Village	Khasra No.	Area in acres
BADHAWANI	H. B. No. 31/348 1 min	16
KAHLA	H.B. No. 94 576/517 min	4
THOLKOLIAN	H.B. No. 31/347 66 min	10
NAGALI	H. B. No. 49/497 291 min 284 min 286 260	49
NAGALI	H B No. 55/597 173	26
SALHARI	H.B. No. 41/430 1, 7	97
KAMHALI	H.B. No. 18/229 238, 232, 239, 236, 234.	3
KHALOG	H.B. No. 95 184 min	7
CHEOLA	H.B. No. 3/50 44 min, 302, 303.	48
SHILLIBAGI	H.B. No. 30/339 388 min, 389	44
KHAIRI	H.B. No. 9/101 186 min	8
JHAKARI BHOJ	H.B. No. 9/102 90/1 min	13
DHAMOON POWABO	24, 23/4	2

By order,
P. K. MATTOO,
Secretary.

HEALTH AND FAMILY PLANNING DEPARTMENT NOTIFICATIONS

Simla-2, the 1st September, 1973

No. 1-10/67-H&FP.—The Governor, Himachal Pradesh, in consultation with the Himachal Pradesh Public Service Commission is pleased to extend the *ad hoc* appointment of following Doctors of Himachal Pradesh Medical College, Simla upto 20th February, 1973:

1. Dr. G.C. Sood, Professor of Ophthalmology.
2. Dr. A. Jagannadham, Assistant Professor of Anaesthesiology.
3. Dr. G. R. Dewan, Deputy Assistant Dental Surgeon.
4. Dr. B. M. Ghosh, Professor of Preventive and Social Medicine.
5. Dr. N. C. Gupta, Assistant Professor of Radiology.
6. Dr. Sat Prakash, Lecturer in E.N.T.

Simla-2, the 19th September, 1973

No. 1-117/71-H&FP.—Consequent upon termination of his services as Lecturer in Medicine in Himachal Pradesh Medical College, Simla, Dr. S. K. Minocha relinquished charge of the post on 8-3-73 (F.N.).

Simla-2, the 20th September, 1973

No. 16-23/73-H&FP.—Whereas it appears to the Governor of Himachal Pradesh that the land is likely to be required to be taken by Government at the public expense for a public purpose, namely for the extension of District Civil Hospital, Hamirpur, it is hereby notified that the land in the locality described below is likely to be required for the purpose mentioned above.

This Notification is made under the provisions of Section 4 of the land Acquisition Act, 1894, to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor of Himachal Pradesh is pleased to authorise the officers for the time being engaged in undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested who has any objection to the acquisition of any land in the locality may within thirty days of the publication of this notification file any objection in writing before the Collector, Hamirpur district, Hamirpur.

SCHEDULE

District: HAMIRPUR

Tehsil: HAMIRPUR

Locality Village	Khasra No.	Area	
		K.	M.
1	2	3	4
VILLAGE:	1574	1	13
BAJURI	1498	0	6
TIKKA: GAURA	1877/1577	17	0
KALAN.	1878/1577	1	9
	1958/1578	0	8
	1948/1614	2	2
	1575	2	0
	1521/1	1	5
	1972/1497	0	14
	1514	0	12
	1973/1497	2	15
	1959/1578	3	5
	1499	0	13
	1510	2	14

1	2	3	4
	1494	0	18
	1509	3	1
	1881/1580	0	14
	1969/1500	1	6
	1595	0	13
	1502	2	2
	1501	1	3
	1508	0	18
	1511	0	9
	1882/1580	0	13
	1968/1500	0	7
	1573	1	5
	1579	0	9
	1876/1576	0	12
	Total	35	5
		i.e. 3.35 acres.	

By order,
H. S. DUBEY,
Secretary.

REVENUE DEPARTMENT NOTIFICATION.

Simla-2, the 19th September, 1973

No. 2-13/71-Rev. I.—In exercise of the powers vested in him under section 3 (c) of the Land Acquisition Act, 1894, and all other powers enabling him in this behalf, the Governor, Himachal Pradesh is pleased to confer on the following officers, all the powers of a Collector under the said Act to be exercised by them with effect from the date of their taking over as Land Acquisition Officers, within the local limits of their respective jurisdiction as specified against each in the Schedule.

SCHEDULE

Name of Officer	Purpose	Area of jurisdiction
1. Shri Mohinder Singh, Land Acquisition Officer, Mandi.	Acquisition of land for purposes of H.P.P.W.D and H. P. State Electricity Board.	Mandi and Kulu districts.
2. Shri M. S. Thakur, District Development and Panchayat Officer, Mandi.	Acquisition of land for purpose BSL Projects.	Mandi and Kulu districts.

By order,
S. R. MAHANTAN,
Deputy Secretary.

TRANSPORT DEPARTMENT NOTIFICATIONS

Simla-2, the 19th September, 1973

No. 2-18/69. Tpt.—In partial Notification of this Government Notification of even number dated the 23rd May, 1973, the Governor, Himachal Pradesh is pleased to substitute to the following for the existing para-4:—

The Governor, Himachal Pradesh is further pleased to accord *ex-post facto* sanction to the holding of full charge of the post of Deputy General Manager (Works), by Shri Yog Raj Vaidya, Automobile Engineer,

Taradevi in addition to his own functions as Automobile Engineer, Taradevi during the period from 15-1-1973 to 9-3-1973.

Simla-2, the 19th September, 1973

No. 9-68/71-Tpt.—Whereas an approved scheme under sub-section (2) of section 68-D of the Motor Vehicle Act, 1939, prepared by the Mandi-Kulu-Road Transport Corporation was published by the Himachal Pradesh Government Transport Department *vide* notification No. 4-4/67-Tpt., dated the 9th August, 1968.

And whereas it is considered necessary and expedient in the public interest to provide an efficient, adequate and economical goods transport service for the carriage of goods, the said approved scheme is further modified in so far it relates to the Goods Transport only.

Now, therefore, in exercise of the powers vested in him under sub-section (2) of section 68-E of the Motor Vehicle Act, 1939, the Governor, Himachal Pradesh is pleased to modify the said scheme published under sub-section (2) of section 68-D of the said Act in the manner indicated below:—

MODIFIED SCHEME

In column 5 of the approved scheme the words "and Goods to trading community and the public" as well as the words "Public carrier" shall be *deleted* and this column will be *read* as under:—

5.—Purpose and extent,—to provide facilities for transport of passengers to the complete exclusion of private operators whether stage carriage or taxi cab on the whole or portion of the route.

Simla-2, the 19th September, 1973

No. 9-68/71-Tpt.—Whereas an approved scheme under sub-section (2) of section 68-D of the Motor Vehicle Act, 1939, prepared by the Mandi Kulu Road Transport Corporation was published by the then Punjab Government Transport Department *vide* notification No. 2192-6HT-66/8742, dated the 2nd April, 1966.

And whereas it is considered necessary and expedient in the public interest to provide an efficient, adequate, and economical goods transport service for the carriage of goods, the said approved scheme is further modified as far it relates to Goods Transport only.

Now, therefore, in exercise of the powers vested in him under sub-section (2) of section 68-E of the Motor Vehicle Act, 1939, the Governor, Himachal Pradesh is pleased to modify the said scheme published under sub-section (2) of section 68-D of the said Act, in the manner indicated below:—

MODIFIED SCHEME

Under heading purpose against serial No. 1 to 5 of the approved scheme the words "and Goods to the trading community and the public" as well as the words "Public carrier"

shall be deleted and this will be read as under:—

PURPOSE

To provide facilities for the transport of passengers to the complete exclusion of private operators whether stage carriage

or taxi cab on the whole or portion of the routes.

By order,

H. S. DUBEY,
Secretary.

भाग 2—वैधानिक नियमों को छोड़ कर विभिन्न विभागों के अध्यक्षों और जिला मैजिस्ट्रेटों द्वारा अधिसूचनाएं इत्यादि

FOREST DEPARTMENT

NOTIFICATION

Chopal, the 16th July, 1973

No. C. XXII-I/VOL. II/1731.—In exercise of the powers vested in me under rule 9 of the Tons on Yamuna River Rules notified under Himachal Pradesh Government notification No. Ft. 43.107/49, dated the 12th October, 1955. The following rates of fee for launching and floating of timber in the jurisdiction of Chopal Forest Division, Himachal Pradesh are fixed as under. These rates are valid for the period ending 30th June, 1974.

1. Logs of all kind with a minimum girth of 0.76200 Metres (2' -6") and minimum length of 1.82880 Metres (6'—0")=0.20 P. each.

2. B. G. Sleepers of large scantlings and other sleepers of more than 08496 C. M. (3 cft.) in volume=0.15 P. each.

3. Smaller scantlings of all kinds below 0840 Metres (3.00 cft.)=0.08 P. each.

4. Hakries of all kinds =0.05 P. each.

5. Firewood scraps =0.05 P. each.

6. Bamboos=0.05 P. each.

1/4 rates are to be charged for logs of all kinds with a girth of less than 0.76200 Metres (2') (2'.6") in girth and length of more than 1.82880 Metres (6'—0") and also for the logs less than 6'—0" in length but more than 0.76200 Metres (2'—6") in girth.

Sd/-

Divisional Forest Officer,
Chopal Forest Division, Chopal.

DEPARTMENT OF HORTICULTURE

NOTIFICATION

Simla-2, the 9th April, 1973

No. 5-3/73-Udyan. II.—In exercise of the powers vested in me vide Rule, 1.26 of Himachal Pradesh Financial Rules, 1971 (Vol. I). I hereby declare the Assistant Fruit Technologist, Dhaulakuan as Head of Office and Drawing and Disbursing Officer and the Deputy Director of Horticulture (East Zone), Simla-2, as Controlling Officer in respect of the Scheme "31-Agriculture (Horticulture)-A-6 (31) Development of walnut (Non-Plan part II).

2. The Deputy Director of Horticulture (East Zone) Himachal Pradesh, Murry Field, Simla-2, will be the Controlling Officer for the purpose of countersignature of T. A. Bills and medical reimbursement claims of the class III & IV staff working under the above mentioned Scheme under him.

3. This notification will take effect from the date of issue.

HARBANS SINGH,
Director.

FORM 'H'

DECLARATION UNDER SECTION 24 OF THE ACT

Kalpa, the 4th September, 1973

No. IND-KNR-(Loan)-12/66-1326.—Whereas a notice was served on Shri Ugar Sukh s/o Shri Kola Sukh, Village Kalpa, P. O. Kalpa, Tehsil Kalpa, District Kinnaur, Himachal Pradesh on the 12th May, 1972 under section 23 of the Punjab State Aid to Industries (H.P. Amendment) Act, 1964 calling upon the said Shri Ugar Sukh s/o Shri Kola Sukh to pay to this office the sum of Rs. 185.72 (Rupees one hundred eighty-five and paise seventy-two only) along with penal interest thereon up-to-date on or before 11th June, 1972 and whereas the said sum has not been paid, I hereby declare that the sum of Rs. 614.28 (Rupees six hundred fourteen and paise twenty-eight only) (balance principal) along with interest and penal interest (up-to-date) will be charged till the date of payment is due from the said Shri Ugar Sukh s/o Shri Kola Sukh and that the property described in the attached schedule is liable for the satisfaction of the said debt.

SCHEDULE

All assets whether movable or immovable belonging to Shri Ugar Sukh s/o Shri Kola Sukh, loanee. A certificate of credit worthiness has been given by Shri Gian Singh Negi, the then MLA, District Kinnaur, Himachal Pradesh.

Sd/-

District Industries Officer,
Kinnaur district, Kalpa.

FORM 'H'

DECLARATION UNDER SECTION 24 OF THE ACT

Kalpa, the 4th September, 1973

No. IND-KNR-(Loan)-8/-65-1329.—Whereas a notice was served on Shri Malpur s/o Shri Bhagner, Village Kalpa, P. O. Kalpa, Tehsil Kalpa, District Kinnaur, Himachal Pradesh on the 11th May, 1972 under section 23 of the Punjab State Aid to Industries (H.P. Amendment) Act, 1964 calling upon the said Shri Malpur s/o Shri Bhagner to pay this office the sum of Rs. 420.62 (Rupees four hundred twenty-two and paise sixty-two only) along with penal interest thereon up-to-date on or before 31st May, 1972 and whereas the said sum has not been paid, I hereby declare that the sum of Rs. 566.67 (Rupees five hundred sixty-six and paise sixty-seven only) (balance principal) along with interest and penal interest (up-to-date) will be charged till the date of payment is due from the said Shri Malpur s/o Shri Bhagner and that the property described in the attached schedule is liable for the satisfaction of the said debt.

SCHEDULE

All assets whether movable or immovable belonging to Shri Malpur s/o Shri Bhagner, loanee. A certificate

of credit worthiness has been given by Shri Harish Chandra the then Magistrate 1st Class, District Kinnaur, Himachal Pradesh.

Sd/-
District Industries Officer,
Kinnaur district, Kalpa.

FORM 'H'

DECLARATION UNDER SECTION 24 OF THE ACT

Kalpa, the 4th September, 1973

No. IND-KNR-(Loan)-6/66-1347.—Whereas a notice was served on Shri Chhering Dass s/o Shri Narjeper, Village Kalpa, P. O. Kalpa, Tehsil Kalpa, District Kinnaur, Himachal Pradesh on the 12th May, 1972 under section 23 of the Punjab State Aid to Industries (H.P. Amendment) Act 1964 calling upon the said Shri Chhering Dass s/o Shri Narjeper to pay this office the sum of Rs. 285.72 (Rupees two hundred eighty five and paise seventy-two only) along with penal interest thereon up-to-date on or before the 10th June, 1972 and whereas the said sum has not been paid, I hereby declare that the sum of Rs. 664.28 (Rupees six hundred sixty four and Paise twenty eight only) (balance principal) along with interest and penal interest (up-to-date) will be charged till the date of payment is due from the said Shri Chhering Dass s/o Shri Narjeper and that the property described in the attached schedule is liable for the satisfaction of the said debt.

SCHEDULE

All assets whether movable or immovable belonging to Shri Chhering Dass s/o Shri Narjeper loanee. A certificate of credit worthiness has been given by Shri Gian Singh Negi, the then MLA, District Kinnaur Himachal Pradesh.

Sd/-
District Industries Officer,
Kinnaur district, Kalpa.

FORM 'H'

DECLARATION UNDER SECTION 24 OF THE ACT

Kalpa, the 4th September, 1973

No. IND-KNR-(Loan)-13/65-1337.—Whereas a notice was served on Shri Bhagpur s/o Shri Samku, Village Kalpa, P. O. Kalpa, Tehsil Kalpa, District Kinnaur, Himachal Pradesh on the 11th May, 1972 under section 23 of the Punjab State Aid to Industries (H.P. Amendment) Act, 1964 calling upon the said Shri Bhagpur s/o Shri Samku to pay this office the sum of Rs. 380.85 (Rupees three hundred eighty and paise eighty-five only) along with penal interest thereon up-to-date on or before the 31st May, 1972 and whereas the said sum has not been paid, I hereby declare that the sum of Rs. 491.42 (Rupees four hundred ninety-one and paise forty-two only) (balance principal) along with interest and penal interest (up-to-date) will be charged till the date of payment is due from the said Shri Bhagpur s/o Shri Samku and that the property described in the attached schedule is liable for the satisfaction of the said debt.

SCHEDULE

All assets whether movable or immovable belonging to Shri Bhagpur s/o Shri Samku loanee. A certificate of credit worthiness has been given by Shri Gian Singh

Negi, the then MLA, District Kinnaur, Himachal Pradesh.

Sd/-
District Industries Officer,
Kinnaur district, Kalpa.

FORM 'H'

DECLARATION UNDER SECTION 24 OF THE ACT

Kalpa, the 4th September, 1973

No. IND-KNR-(Loan)-16/66-1333.—Whereas a notice was served on Shri Bishan Dass s/o Shri Guru, village Kalpa, P. O. Kalpa, Tehsil Kalpa, District Kinnaur, Himachal Pradesh, on the 11th May, 1972 under section 23 of the Punjab State Aid to Industries H. P. Amendment) Act, 1964 calling upon the said Shri Bishan Dass s/o Shri Guru, to pay this office the sum of Rs. 145 (Rupees one hundred forty five only) along with penal interest thereon (up-to-date) on or before 31st May, 1972 and whereas the said sum has not been paid, I hereby declare that the sum of Rs. 250 (Rupees two hundred fifty only) (balance principal) along with interest and penal interest (up-to-date) will be charged till the date of payment is due from the said Shri Bishan Dass s/o Shri Guru, and that the property described in the attached schedule is liable for the satisfaction of the said debt.

SCHEDULE

All assets whether movable or immovable belonging to Shri Bishan Dass s/o Shri Guru, loanee.

Sd/-
District Industries Officer,
Kinnaur district, Kalpa.

FORM 'H'

DECLARATION UNDER SECTION 24 OF THE ACT

Kalpa, the 4th September, 1973

No. IND-KNR-(Loan)-6/66-1322.—Whereas a notice was served on Shri Kamar Sukh s/o Shri Akal Sukh, Village Kalpa, P. O. Kalpa, Tehsil Kalpa, District Kinnaur, Himachal Pradesh on the 12th May, 1972 under section 23 of the Punjab State Aid to Industries (H. P. Amendment) Act, 1964 calling upon the said Shri Kamar Sukh s/o Shri Akal Sukh to pay this office the sum of Rs. 428.56 (Rupees four hundred twenty eight and Paise fifty-six only) along with penal interest thereon up-to-date on or before 10th June, 1972 and whereas the said sum has not been paid, I hereby declare that the sum of Rs. 857.14 (Rupees eight hundred fifty seven and fourteen only) (balance principal) along with interest and penal interest (up-to-date) will be charged till the date of payment is due from the said Shri Kamar Sukh s/o Shri Akal Sukh and that the property described in the attached schedule is liable for the satisfaction of the said debt.

SCHEDULE

All assets whether movable or immovable belonging to Shri Kamar Sukh s/o Shri Akal Sukh, loanee. A certificate of credit worthiness has been given by Shri Gian Singh Negi, the then MLA, District Kinnaur, Himachal Pradesh.

Sd/-
District Industries Officer,
Kinnaur district, Kalpa.

DECLARATION UNDER SECTION 24 OF THE ACT

Solan, the 14th September, 1973

No. UM (Loan) RIP/334/67-1329.—Whereas a notice was served on Shri Laiq Ram Sharma s/o Shri Durga Dutt Sharma r/o village Deothi P. O. Deothi, Tehsil and District Solan, Himachal Pradesh on 28-10-1972 under section 23 of the Punjab State Aid to Industries Act, 1935 as modified and applied to Himachal Pradesh calling upon the said Shri Laiq Ram Sharma to pay to me the sum of Rs. 2142.84 on or before 8-11-1972, and whereas the said sum has not been paid, I, hereby declare that the sum of Rs. 2142.84 is due from the said Shri Laiq Ram Sharma and that the property described in the attached schedule is liable for the satisfaction of the said debt.

SCHEDULE

1. Shri Sant Ram Sharma s/o Shri Looju r/o Village Chamat, Tehsil and District Solan, Himachal Pradesh.
2. Shri Durga Dutt s/o Shri Krishany r/o Village Deothi, P. O. Deothi, Tehsil and District Solan.

Sd/-

*District Industries Officer,
Solan District, Solan.*

**OFFICE OF THE DISTRICT MAGISTRATE
MANDI DISTRICT MANDI, HIMACHAL PRADESH
NOTIFICATION**

Mandi, the 1st September, 1973

No. 26-MD-(24)/71-II-15358-61.—In exercise of the powers vested in me under section 74 of the Indian Motor Vehicle Act, 1939, read with Government of Himachal Pradesh Transport Department, memorandum No. 4-9/63-TPT., dated the 26th March, 1966, I, R. K. Anand, District Magistrate, Mandi district hereby order that:—

Vehicular traffic will not be allowed on the Beas bridge when pedestrians are crossing the bridge at Mandi and similarly when vehicles are negotiating the bridge, the pedestrians will not be allowed to cross the bridge.

This order shall come into force with immediate effect.

R. K. ANAND,
District Magistrate.

PUBLIC WORKS DEPARTMENT

NOTIFICATIONS

Solan, the 29th August, 1973

No. SE-III-G(R)61-2/73-28072-75.—Whereas it appears to the Governor, Himachal Pradesh that the land is required to be taken by the Government at public expense for a public purpose, namely for construction of Jagadhari Paonta-Rajban-Rohru road, It is hereby declared that the land described in the specification below is required for the above purpose.

2. The declaration is made under the provision of section 6 of the Land Acquisition Act, 1894 to all whom it may concern and under the provisions of section 7 of the said Act, the Collector, Land Acquisition, Himachal Pradesh Public Works Department, is hereby directed to take order for the acquisition of the said land.

3. A plan of the land may be inspected in the office of the Collector, Land Acquisition, Himachal Pradesh

Public Works Department, Solan.

SPECIFICATION

*District: SIRMUR**Tehsil: PAONTA*

Village	Khasra No.	Area Big. Bis.
SHILLA	2015	2 9
	2017	0 11
	2710/2016/1	2 14
Total		5 4

Solan, the 30th August, 1973

No. SE-III-G(R)61-10/72-73-28207-10.—Whereas it appears to the Governor, Himachal Pradesh that land is likely to be required to be taken by the H.P. Government at the public expense for a public purpose, namely for the construction of Nahan-Dadahu road, it is hereby notified that land in the locality described below is likely to be acquired for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894 to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor, Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested, who has any objection to the acquisition of the said land in the locality may, within thirty days of the publication of this notification, file an objection in writing before the Collector of Land Acquisition, Himachal Pradesh Public Works Department, Solan.

SPECIFICATION

*District: SIRMUR**Tehsil: RENUKA*

Village	Khasra No.	Area Big. Bis.
SHIROO MAILA	241/202/1	2 8

Solan, the 1st September, 1973

No. SE-III-G(R)61-11/73-28519-22.—Whereas it appears to the Governor, Himachal Pradesh that land is likely to be required to be taken by the Himachal Pradesh Government at the public expense for a public purpose, namely for the construction of Oachghat-Narag road, it is hereby notified that land in the locality described below is likely to be acquired for the above purpose.

The notification is made under the provision of section 4 of the Land Acquisition Act, 1894, to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor, Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested, who has any objection to the acquisition of the said land in the locality may, within thirty days of the publication of this notification, file

an objection in writing before the Collector of Land Acquisition Officer, Solan.

SPECIFICATION

District: SIRMUR Tehsil: PACHHAD

Village	Khasra No.	Area Big. Bis.
NORA AND TARAF	290/1	0 13
ARYOG (NOHRA	306/1	0 11
AND PATTI ARYOG)	310/1	0 11
	308	0 6
	309	0 2
	307	0 8
	305	0 18
	304	0 8
	103/1	0 19
Total		4 16

M. L. BANSAL,
Superintending Engineer,
3rd Circle, H.P., P.W.D., Solan.

Kulu, the 27th August, 1973

No. SEVI-LA-6/GI-21624-27.—Whereas it appears to the Governor, Himachal Pradesh that land is likely to be required to be taken by the Himachal Pradesh Government at the public expense for a public purpose, namely for construction of Bhunter-Mani Karan road mile 6 to 10 (Phatti Chong). It is hereby notified that land in the locality described below is likely to be acquired for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894 to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor, Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested, who has any objection to the acquisition of the said land, in the locality may, within thirty days of the publication of this notification, file an objection in writing before the Collector, Himachal Pradesh Public Works Department, Mandi and Kulu districts at Mandi.

SPECIFICATION

District: KULU Tehsil: KULU

Village	Khasra No.	Area Big. Bis. Bisw.
CHONG	931/1	0 2 0
	877/1	0 1 0
	1020/1/1	0 1 0
	880	0 1 0
Total		0 5 0

Kulu, the 31st August, 1973

No. SEVI-LA-3/GI/21908-11. Whereas it appears to the Governor, Himachal Pradesh that the land is required to be taken by the Government at public expense for a public purpose, namely for Upgrading Kulu-Nagar-Manali road to truckable standards (section Dhalpur to Ram Shila), it is hereby declared that the land described in the specification below is required for the above purpose.

The declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894 to all whom it may concern and under the provisions of section 7 of the said Act, the Collector, Land Acquisition, Himachal Pradesh Public Works Department, is hereby directed to take order for the acquisition of the said land.

A plan of the land may be inspected in the office of the Collector, Land Acquisition, Himachal Pradesh Public Works Department, Mandi and Kulu districts at Mandi.

SPECIFICATION

District: KULU Tehsil: KULU

Village	Khasra No.	Area Big. Bis.
PHATI: KHARAHAL	6394/1	0 3
KOTHI: KAIS.	6395/1	0 7
	6396/1	0 2
	6603/1	2 17
Total		3 9

Kulu, the 31st August, 1973

No. SEVI-LA-3/GI/21904-07.—Whereas it appears to the Governor, Himachal Pradesh that the land is required to be taken by the Government at public expense for a public purpose, namely for construction of Kulu-Manali Left Bank road (Jagat Sukh), it is hereby declared that the land described in the specification below is required for the above purpose.

The declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894 to all whom it may concern and under the provisions of section 7 of the said Act, the Collector, Land Acquisition, Himachal Pradesh Public Works Department, is hereby directed to take order for the acquisition of the said land.

A plan of the land may be inspected in the office of the Collector, Land Acquisition, Himachal Pradesh Public Works Department, Mandi and Kulu districts at Mandi.

SPECIFICATION

District: KULU Tehsil: KULU

Village	Khasra No.	Area Big. Bfs. Bis.
JAGAT SUKH	2317/1	0 0 8
Total		0 0 8

K. C. SHANDIL,
Superintending Engineer,
6th Circle, H.P.P.W.D., Kulu.

भाग 3—अधिनियम, विधेयक और विधेयकों पर प्रवर समिति के प्रतिवेदन, वैधानिक नियम तथा हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश हाई कोर्ट, फाइनैन्शियल कमिश्नर तथा कमिश्नर आफ इन्कम-टैक्स द्वारा अधिसूचित आदेश इत्यादि

**ANIMAL HUSBANDRY DEPARTMENT
NOTIFICATION**

Simla-2, the 5th September, 1973

No. 16-2/69-AH(Sectt.) II.—In exercise of the powers conferred by proviso to Article 309 of the Constitution of India and all other powers enabling him in this behalf, the Governor, Himachal Pradesh in consultation with the Himachal Pradesh Public Service Commission obtained vide their letter No. 1-3/71-PSC, dated the 25th September, 1972, is pleased to amend the existing Himachal Pradesh Animal Husbandry Department (Class I posts) Recruitment Rules, 1963 in respect of the posts of Director of Animal Husbandry and Deputy Director of Animal Husbandry, in the Animal Husbandry Department of the Himachal Pradesh as per annexure III enclosed with immediate effect.

ANNEXURE III

**FORM TO BE FILLED IN BY THE DEPARTMENT
WHILE FORWARDING PROPOSALS TO THE
PUBLIC SERVICE COMMISSION FOR
AMENDING APPROVED RECRUITMENT
AND PROMOTION RULES**

- | | |
|---|---|
| 1. Name of the post | Director, Animal Husbandry, Himachal Pradesh. |
| 2. Name of the Department | Animal Husbandry Department Himachal Pradesh. |
| 3. Reference No. in which commission's advice on recruitment Rules as conveyed. | |

Col No.	Provision in the approved rules	Revised provision as approved by the Himachal Pradesh Public Service Commission
1	2	3
	General Service Class I	Himachal Pradesh Veterinary Service Class I.
4.	Rs. 630-40-750/40-950/50-1200.	Rs. 1600-50-1800/100-2000.
6.	40 years and below (relaxable for Government Servants).	45 years or below (relaxable for Government Servants).
7. Essential:		Essential:
	(i) Degree or Diploma in Veterinary Science of a recognised University/Institution.	(i) Master's degree in Veterinary Science and Animal Husbandry or equivalent.
		OR
		Bachelor's degree in Veterinary Science and Animal Husbandry and a specialised training consisting of a course of not less than 9 months duration in Animal Husbandry/Poultry Husbandry/

1	2	3
		Veterinary Medicine/Dairying/Swine Husbandry equivalent from a recognised institution.
(ii) Post-Graduate training in Animal Husbandry.	(ii) At least ten years' experience of Animal Husbandry and Veterinary Science including five years' experience in a responsible administrative posts.	
(iii) About 5 years' experience in a responsible capacity in an Animal Husbandry Department (Qualification relaxable at Commission's discretion in case of candidates otherwise well qualified).		
<i>Desirable:</i>	<i>Desirable:</i>	
(i) Should be able to undertake extensive touring in the hills.	(i) Ph. D. Degree in Veterinary Science.	
(ii) Should be conversant with the general Animal Husbandry problems of the hills.	(ii) Knowledge of customs, manners and dialects of Himachal Pradesh.	
(iii) Training in Sheep Husbandry.		
8. No.		Age No. Qualifications Yes, with the reservation that those Licensed Veterinary Practitioners who are in the employ of the Himachal Pradesh Government as Gazetted Officers on the date of the enforcement of these amendments will no be debarred by the qualifications prescribed by these rules.
9. Two years.		Two years subject to such further extension not exceeding one year as may be ordered by the competent authority in special circumstances and for reasons to be recorded in writing.
12. Class I Departmental Promotion/Committee.		A DPC to be presided over by the Chairman of the Himachal Pradesh Public Service Commission or a Member thereof to be nominated by him.

1	2	3
13.	As required under the Rules.	As required under the law.

ANNEXURE III

FORM TO BE FILLED IN BY THE DEPARTMENT WHILE FORWARDING PROPOSALS TO THE PUBLIC SERVICE COMMISSION FOR AMENDING APPROVED RECRUITMENT AND PROMOTION RULES

1. Name of the post Deputy Director, Animal Husbandry, Himachal Pradesh.
2. Name of Department Animal Husbandry Department, Himachal Pradesh.
3. Reference No. in which Commission's advice on Recruitment Rules was conveyed.

Col. No.	Provision in the approved Rules	Revised provision as approved by the Himachal Pradesh Public Service Commission
1	2	3

- | | |
|--|--|
| 2. One | Three. |
| 3. General Service Class I | Himachal Pradesh Veterinary Service Class I. |
| 4. Rs. 350-40-630/40-870 | Rs. 400-30-550/40-750/50-1250. |
| 5. Not applicable. | Selection. |
| 7. Essential: | Essential: |
| (i) Degree or Diploma in Veterinary Science of a Recognised University/Institution. | (i) Master's Degree in Veterinary Science and Animal Husbandry or equivalent.
OR
Bachelor's degree in Veterinary science and Animal Husbandry and a specialised training consisting of a course of not less than 9 months duration in Animal Husbandry/Poultry Husbandry/Veterinary Medicine/Dairying/Swine Husbandry or equivalent from a recognised Institution. |
| (ii) Post-Graduate training in Animal Husbandry, about three Years' experience of Animal Husbandry work (qualifications relaxable at Commission's discretion in case of candidates otherwise well qualified. | (ii) At least 5 years' experience of Animal Husbandry and Veterinary Science. |
| Desirable: | Desirable: |
| (i) Experience of work in Hilly Areas. | (i) Ph. D. Degree in Veterinary Science. |

1	2	3
(ii) Administrative experience.	ex-	(ii) Knowledge of customs, manners and dialects of Himachal Pradesh.

8. Not applicable.

Age: No.

Qualifications, Yes, with the reservation that those Licensed Veterinary Practitioners who are in the employ of the Himachal Pradesh Government as Gazetted Officers on the date of the enforcement of these amendments, will not be debarred by the qualifications prescribed by these rules.

9. Two years

Two years subject to such further extension not exceeding one year as may be ordered by the competent authority in special circumstances and for reasons to be recorded in writing.

10. Direct Recruitment.

33-1/3% by direct recruitment.

66-2/3% by Promotion. This ratio will be reviewed if the number of posts is varied.

11. Not applicable

Promotion:

From amongst District Animal Husbandry Officers/Key Village Officer/Managers/Research Officers of Sheep Farms/Officer Incharge Training/Managers of Government Livestock Farms/Cattle Development Officers/Dairy Development Officers/Poultry Development Officers/Disease Investigation Officers/Research Officer (WAL)/Dairy Managers with 3 years service in the Grade.

Note.—Seniority of the eligible Officers for the purpose of promotions shall be reckoned from the date of their regular appointment to the respective Class III posts. ??

12. Not applicable.

A D.P.C. to be presided over by the Chairman of the Himachal Pradesh Public Service Commission.

1	2	3
		sion or a Member thereof to be nominated by him.
13.	As required under the Rules	As required under the law.

AJAY PRASAD,
Deputy Secretary.

FOREST DEPARTMENT NOTIFICATIONS

Simla-2, the 23rd August, 1973

No. 8-5/73-SF.—In exercise of the powers conferred by sections 30 and 32 of the Indian Forest Act, 1927 (XVI of 1927), which has been applied to the land specified in the schedule appended to the Himachal Pradesh Government notification of even number, dated the 20th August, 1973, and all other powers enabling him in this behalf, the Governor of Himachal Pradesh is pleased to direct that the following rules shall apply to the said land:

RULES

1. No person shall cut/fell or lop any trees for any purpose whatsoever or remove any forest produce; provided that subject to rules 3 below, the owners may fell and remove trees, timber and other forest produce for their own domestic and agricultural purposes.

2. Subject to the approval of the Divisional Forest Officer, Solan Forest Division, the owners may sell trees; provided that the trees have first been marked by the Divisional Forest Officer.

3. No living trees, standing within 30 feet of the bank of any stream or torrent bed shall be felled for any purpose whatsoever.

4. No person shall herd, pastures, graze or retain sheep, goats, camels or other cattle on the land specified in the schedule annexed to Himachal Pradesh Government notification of even number, dated 20th August, 1973; provided that in such area where the forest crop is well established and in cases of emergency, such as abnormal drought or floods, the Divisional Forest Officer, Solan Forest Division may throw open such area or areas for grazing of the cattle of the landowners except sheep, goats and camels on such conditions as may be appropriate in each case.

5. No person shall clear or break up land for cultivation or other purposes; provided that if in the opinion of the Divisional Forest Officer, Solan Forest Division, the land is sufficiently protected from damage by flood and erosion, the owners may cultivate the land to the extent permitted by him.

6. No person shall cut or remove grass; provided that the owners may cut grass for their own use or allow its sale with the approval of, and within the period allowed by the Divisional Forest Officer, Solan Forest Division on the condition that grass is cut above ground with a *drati* only (date to be fixed to allow scattering of ripe grass seed).

7. No person shall set fire to grass/trees or timber or kindle a fire on the land without taking reasonable precautions to prevent it spreading.

8. The quarrying of stone or the burning of lime at places where such stone or lime has not ordinarily been so quarried or burnt prior to the publication of the Himachal Pradesh Government notification of even num-

ber, dated the 20th August, 1973, shall be prohibited except with the permission of the Collector of Solan district who will consult the Divisional Forest Officer, Solan Forest Division before according such permission.

9. Income from composition of offences against these rules under section 68 of the Indian Forest Act, 1927, shall be credited to Government.

By order,
P. K. MATTOO,
Secretary.

Simla-2, the 12th September, 1973

No. 2-55/73-(Estt.) (Rules).—In exercise of the powers vested in him under the proviso to Article 309 of the Constitution of India, the Governor, Himachal Pradesh is pleased to make the following additions/amendments in the Himachal Pradesh Forest Department Class IV Service (Recruitment, Promotion and Certain Conditions of Service) Rules, 1966, as notified vide notification No. 1 Ft. 573-6/64(E), dated the 24th March, 1966:—

AMENDMENTS

1. In sub-rule (3) of rule 5 of the Himachal Pradesh Forest Department Class IV Service (Recruitment, Promotion and Certain Conditions of Service) Rules, 1966, (hereinafter called the "said rules") the figure and word "25 years" shall be substituted with the figure and word "27 years".

2. In rule 6 of the said rules, before the existing entry (i) (a) the following entry (i) shall be inserted, namely:—

"(i) **Restorer.**—He has passed the Matriculation or Higher Secondary Examination from the Recognised University/Board of School Education. The prescribed educational qualifications will be relaxed in the case of departmental promotee, provided the departmental promotee is either permanent or quasi/permanent in the scale of Daftri/Jamadar/Peon Khalasis and has put in at least 5 years service passed Anglo-Vernacular Middle Examination of a recognised School/Board of School Education and possesses knowledge of English and Hindi."

(b) the existing items (i) to (v) shall be re-numbered as items (ii) to (vi),

(c) the heading of re-numbered item (iv) shall be substituted as "Peons/Khalasis".

3. In rule 7 of the said rules,—

(a) after the word "Peons" wherever it occurs the oblique and word "Khalasis" shall be added,

(b) after item No. (iii) and before the proviso the following shall be added as item No. (iv), namely:—

"(iv) **Restorer.**—By promotion from amongst the Daftri/Jamadar fulfilling the requisite educational qualification prescribed in Rule 6(i) on the basis of seniority subject to rejection of the unfit, failing which from amongst the Peons/Khalasis fulfilling the requisite qualification prescribed in rule 6(i) on the basis of seniority-cum-merit and failing which by direct recruitment."

(c) for the existing proviso the following proviso shall be substituted, namely:—

"**Saving.**—Nothing in these rules shall affect reservations and other concessions required to be provided for scheduled castes and scheduled Tribes and other special categories of persons in accordance with the orders issued by the State Government from time to time in this

regard."

For the existing Annexure to the said rules, the following annexure shall be substituted, namely:—

ANNEXURE

CHARACTER OF POSTS OF CHIEF CONSERVATOR OF FORESTS OFFICE

Grade

1. Restorer	Rs. 100-4-140/5-160.
2. Daftry	Rs. 75-3-90/3-105.
3. Jamadar	Rs. 75-3-90/3-105.
4. Pec	Rs. 70-2-80/3-95.
5. Sweeper	Rs. 70-2-80/3-95.
6. Chowkidar	Rs. 70-2-80/3-95.

II. CHARACTER OF POSTS OF SUBORDINATE OFFICES

1. Jamadar	Rs. 75-3-90/3-105.
2. Peons and Khalasis	Rs. 70-2-80/3-95.
3. Chowkidar	Rs. 70-2-80/3-95.
4. Dak Runner	Rs. 70-2-80/3-95.
5. Mali	Rs. 70-2-80/3-95.
6. Sweeper	Rs. 70-2-80/3-95.

P. K. MATTOO.
Secretary.

HORTICULTURE DEPARTMENT

NOTIFICATION

Simla-2, the 31st August, 1973

No. 16-1/73-Hort.(Sectt.).—In exercise of the powers conferred by proviso to Article 309 of the Constitution of India and all other powers enabling him in this behalf, the Governor, Himachal Pradesh is pleased to make the following rules in respect of the Himachal Pradesh Horticulture Class IV service in regard to the following matters, namely:—

- the method of recruitment to the Himachal Pradesh, Horticulture Class IV service;
- the qualifications necessary for appointment to such service and post; and
- the conditions of service of persons appointed to such service and posts for the purposes of probation, confirmation, seniority and promotion.

RECRUITMENT RULES

PART I—GENERAL

1. *Short title extent and commencement.*—These rules may be called the Himachal Pradesh Horticulture Class IV service (Recruitment, Promotion and Certain Conditions of Service) Rules 1973.

(ii) These rules shall come into force with effect from the date of publication of this notification in the Official Gazette.

2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or the context;

- 'appointing authority' means the Director of Horticulture, Himachal Pradesh or any other authority appointed by the Himachal Pradesh Government to perform the duties of Director of Horticulture in Himachal Pradesh;
- 'Director' means the Director of Horticulture, Himachal Pradesh, or any other authority appointed to perform the duties of Director of Horticulture in Himachal Pradesh;

(c) 'Departmental Promotion Committee' means a committee appointed by the Himachal Pradesh Government to recommend existing officials of the Department of Horticulture for promotion to a higher grade or class or to recommend candidates for appointments to the posts recruitment to which is not to be made on the recommendations of the Commission;

(d) 'direct recruitment' means appointment made otherwise than by promotion from amongst the member of the service or by transfer of an official already in the service of the Government;

(e) 'Government' means the Government of Himachal Pradesh Government;

(f) 'School' means any school recognised by the Government;

(g) 'scheduled castes' means the castes, races or tribes, or parts of or groups within castes, races or tribes specified in the Constitution (Scheduled Castes) Order, 1950, as amended by section 19(1) read with the First Schedule of the State of Himachal Pradesh Act, 1970 (53 of 1970) and as it may further be amended from time to time;

(h) 'scheduled tribes' means the tribes or tribal communities or parts of or groups within tribes or tribal communities specified in the Constitution (Scheduled Tribes) Order, 1950 as amended by section 20(1) read with Third Schedule of the State of Himachal Pradesh Act, 1970 (53 of 1970) and as it may be amended from time to time;

(i) 'Service' means the Himachal Pradesh Horticulture Class IV service;

(j) 'recognised University/Board of School Education' means any University/Board of School Education incorporated by law in the Union of India or any other University or Board of School Education which may be declared by the Government to be a recognised University for the purpose of the rules.

3. *Part II Constitution of the service and General conditions for appointment.*—The service shall consist of such number of posts. Whether permanent or temporary. of each grade, specified in Appendix 'A' and as the Government may, from time to time determine, Recruitment/ Promotion to this service shall be made by the Appointing Authority, on the recommendations of the Departmental Promotion Committee. The rates of pay may be changed by the Government from time to time, as the Government may order.

4. *Nationality eligibility of candidates.* (1).—A candidate for appointment to any post in the service must be.—

- a citizen of India, or
- a subject of Sikkim, or
- a subject of Nepal, or
- a person of Indian origin who has migrated from Pakistan with the intention of permanently settling in India;

Provided that if he/she belongs to category (c) or (d) he/she must be a person in whose favour a certificate of eligibility has been given by the Government of India:

Provided further that if he/she belongs to category (d) the certificate of eligibility shall be valid only for a period of one year from the date of his appointment beyond which he/she can be retained in service only if he/she has become a citizen of India.

A candidate in whose case a certificate of eligibility is necessary, may be admitted to an examination or interview and he/she may also provisionally be appointed subject to the necessary certificate being given to him/her by the Government.

(2) Unless he/she is already in Government service must produce:

- (i) a certificate of good moral character from the Principal Academic Officer of his/her University college or school or from the Head of the Educational or Technical Institution last attended by him or her;
- (ii) a certificate of his/her good moral character from a Gazetted Officer of the Central or a State Government or a Member of Parliament or State Legislatures or from some respectable and trustworthy person, who can certify from his personal knowledge the identity of the applicant and the correctness of the particulars furnished by him;
- (iii) a medical certificate as required under Civil Services Regulation or other relevant rules;
- (iv) a declaration to the effect that in case of a male he has not more than one living wife and in case of female she has not married a person having already a wife living.

Note. (a) No person who has more than one wife living or who having a spouse living marries in case in which such marriage is void by reasons of its taking place during the life time of such spouse, shall be eligible for appointment to service.

(b) No female candidate, who has married a person having already a wife living shall be eligible for appointment:

Provided that the Government may, is satisfied that there are special grounds for doing so, exempt any person from the operation of the rule in clause (iv) above, subject to observance of the Government's instructions issued in this behalf.

5. A candidate must not be less than 18 years and not more than 27 years of age on the date of his/her appointment:

Provided that the minimum and maximum age limit as prescribed above may be relaxed in pursuance of relevant instructions of the Government in force under special circumstances to be reduced in writing:

Provided further that the maximum age limit may be relaxed in the case of scheduled caste/scheduled tribes candidates in accordance with the orders issued by the Government in this behalf from time to time.

6. *Method of recruitment.* Posts in the service shall be filled either by promotion or by direct recruitment or by transfer or by deputation from other departments or Governments in the following manner provided that if sufficient number of suitable candidates are not available from amongst departmental employees or direct recruits and if the exigency or public service so require, the appointing authority may vary the percentage of vacancies to be filled by such method with the approval of the Government.

(i) *Bee-keeper.*—50% by promotion from amongst the Skilled Grafter and Fieldman (Bee-keeping) provided they are primary pass and possess five years experience in the grade, in the ratio of 75 and 25 respectively and the remaining 50% by direct recruitment.

(ii) *Skilled Grafter.*—66% by promotion from amongst the fieldman/Beldar/Mali/Peon/Chowkidar/Budder/Gardener-cum-Operator/Jamadar with five years experience in the grade, and provided further that they can read and write Hindi well and remaining 33% by direct recruitment.

(iii) *Fieldman (Bee-keeping).*—66⅔% by promotion from amongst the Beldar, Mali, Peon, Chowkidar, Budder, Gardner-cum-Operator and Jamadar who can read and write Hindi and possess 5 years service in the grade and another 33-1/3% by direct recruitment.

(iv) *Mali, Beldar/Jamadar/Budder/Gardner-cum-Operator* by direct recruitment.

(v) *Peon* by direct recruitment.

(vi) *Chowkidar, Cleaner, Sweeper.*—By direct recruitment:

Provided that such percentage of posts as may be prescribed by the Government from time to time shall be reserved for scheduled castes and scheduled tribes and ex-servicemen subject to the minimum qualifications being satisfied by them. A roster shall be maintained for this purpose as required under the standing instructions of the Government.

7. *Educational and technical qualifications of candidates.*—No person shall be appointed by way of direct recruitment to the service unless one possess the following qualifications:—

(1) *Bee-keeper.*—*Matric.*

(2) *Skilled grafter.*—Middle pass with Gardners training class pass or Agricultural Sub-Inspector trained.

(3) *Fieldman (Bee-keeping).*—Middle pass with Gardners training class pass or Agricultural Sub-Inspector trained.

(4) *Mali/Beldar/Jamadar/Budder/Gardner-cum - Operator.*—Should be literate. Preference will be given to candidates having experience in Gardening or a certificate of Gardeners training class.

(5) *Chowkidar/Cleaner/Sweeper.*—Primary standard.

(6) *Peon.*—Middle pass:

Provided further that the Educational qualifications prescribed for direct recruits will not be applicable in the case of promotees.

8. *Probation of members of service.*—(1) Members of the service, who are appointed against permanent vacancies shall, on appointment to any post in the service, remain on probation for a period of two years.

Explanation.—Approved officiating service shall be taken as a period spent on probation but no member, who is officiating in any appointment shall on the completion of the prescribed probationary period be confirmed until he/she is appointed against a permanent vacancy.

2. If the work or conduct of any member during his/her period of probation, is in the opinion of the appointing authority not satisfactory, the appointing authority may dispense with his services or revert him/her to his/her former post if he/she has been recruited otherwise than by direct appointment.

3. On the completion of the period of probation of any member, the appointing authority may confirm such member in his/her appointment subject to availability of a permanent post or if his/her work or conduct has, in the opinion of the appointing authority, not been satisfactory, may dispense with his/her services, or revert him/her to his/her former post, if he/she has been appointed otherwise than by direct recruitment, or may extend the period of probation and thereafter pass such orders as it could have passed on the expiry of probation of the first period of probation:

Provided always that the total period of probation including extensions, if any shall not exceed double the period as prescribed above.

9. *Seniority of members of service.*—(i) Persons appointed in a substantive or officiating capacity to a grade prior to the issue of these rules shall retain their relative seniority already assigned to them or such seniority as may hereafter be assigned to them under the existing orders applicable to their cases and shall *en bloc* be senior to all others in that grade.

(a) *Explanation*.—For the purpose of these rules, persons who are confirmed retrospectively with effect from the date earlier than the issue of these rules.

(b) Persons appointed on probation to a permanent post substantively vacant in a grade prior to the issue of these rules, shall be considered to be the permanent members of the grade.

(2) Subject to the provision of paragraphs (1) and 3 of this rule permanent members of each grade shall be ranked senior to persons who are officiating in that grade.

(3) *Direct recruitment*.—The relative seniority of all direct recruits shall be determined by the order of merit in which they are selected for such appointment on the recommendations of D.P.C., persons appointed as a result of an earlier selection being senior to those appointed as a result of a subsequent selection:

(i) provided that where persons recruited initially on a temporary basis are confirmed subsequently in an order different from the order of the merit indicated at the time of their appointment, seniority shall follow the order of confirmation and not the original order of merit:

(ii) provided further that a person who does not join within the prescribed period shall lose his/her seniority, according to the selection and shall rank in the seniority list next to the person who joined earlier:

(iii) Provided further that he/she shall not lose his/her seniority if the fact of his/her joining later was caused by circumstances beyond his/her control and for the reasons to be recorded in writing, the appointing authority is satisfied that this was so.

(4) *Promotees*.—(i) The relative seniority of persons promoted to the various grades shall be determined in the order of their selection for such promotion:

Provided that where persons promoted initially on a temporary basis are confirmed subsequently in an order different from the order of merit indicated at the time of their promotion, seniority shall follow the order of confirmation and not the original order of merit.

(ii) Where promotions to a grade are made from more than one grade an *inter se* seniority of all eligible persons shall be arranged in separate lists in the order of their date of appointment in their respective grades. Thereafter the duly constituted Departmental Promotion Committee, or the other selecting/recommending authority shall select persons for promotion from this list and draw up a merit list which will determine the seniority of persons on promotion to the higher grade.

(5) *Relative seniority of direct recruits and promotees*.—The relative seniority of direct recruits and or promotees shall be determined according to the rotation of vacancies reserved for direct recruits and promotees respectively in these rules.

(6) *Transfers*.—The relative seniority of persons appointed by the transfer to the service from the subordinate offices or the Central Government or other departments of the State Government shall be determined in accordance with the order of their selection for such transfer. In case of officials transferred from other departments etc. the previous services will not count for purposes of seniority.

Explanatory memorandum rule (4).—Where promotions are made on basis of seniority subject to the rejection of the unfit the seniority of persons considered fit for promotion at the same time shall be the same as the relative seniority in the lower grade from which they are promoted.

Where, however, a person is considered as unfit for promotion and is superseded by a junior, such person shall not, if he is subsequently found suitable and promoted take seniority in the higher grade over the junior persons who had superseded him.

Rule (5).—A roster should be maintained based on the reservation for direct recruitment and promotion in the recruitment Rules. Appointments should be made in accordance with this roster and seniority determined accordingly.

10. *Liability to transfer*.—Every member of the services shall be liable to transfer anywhere within Himachal Pradesh.

11. *Leave and Pension etc.*—In respect of leave, pension and other cognate matters not specifically mentioned in these rules, the members of the service shall be governed by the rules, applicable to the other employees of the State of Himachal Pradesh or such rules, as may be adapted by the Government from time to time unless one has exercise option otherwise.

12. *Power to relax*.—Where the Government is of the opinion that it is necessary or expedient to do so, it may by order for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.

13. *Repeal and Savings*.—The corresponding provisions of the Himachal Pradesh Horticulture Class IV Recruitment and Promotion Rules, 1962 in respect of any matter for which the provisions is made in these rules shall stand repealed:

Provided that such repeal shall not affect the previous operation of the rules and orders hereby repealed or anything done or any action taken thereunder.

K. C. PANDEYA.
Secretary.

APPENDIX 'A' TO THE RECRUITMENT AND PROMOTION RULES FOR THE CLASS IV SERVICES/POSTS OF BEE KEEPERS/FIELDMAN (BEE-KEEPING)/SKILLED GRAFTER/MALI/BELDAR/BUDDER/JAMADAR/CHOWKIDAR/PEON/CLEANER AND SWEEPER IN THE DEPARTMENT OF HORTICULTURE, HIMACHAL PRADESH

1. *Classification*.—Class IV.

2. *If a D.P.C. exists what is its composition*.—Controlling Officer and two Heads of Offices. Department of Horticulture, Himachal Pradesh to be nominated by the Director of Horticulture.

Sl. No.	Name of the post	No. of posts	Scale of Pay
1.	Bee-keeper	25	Rs. 80-120
2.	Skilled Grafter	60	Rs. 75-105
3.	Fieldman (Bee-keeping)	13	Rs. 75-95
4.	Mali/Beldar/Jamadar/Buddar/Gardner-cum-Operator.	328	Rs. 70-95
5.	Chowkidar/Cleaner/Sweeper	42	Rs. 70-95
6.	Peons	34	Rs. 70-95

Sd/-
Deputy Secretary.

TRANSPORT DEPARTMENT
NOTIFICATION

Simla-2, the 18th September, 1973

No. 2-20/73-Tpt.—In exercise of the powers conferred

under proviso to Article 309 of the Constitution of India, the Governor, Himachal Pradesh is pleased to make the following Recruitment and Promotion Rules to the Himachal Pradesh, Motor Vehicles Department, Class IV Service, in regard to the following matters, namely:

- (i) The method of recruitment to the Class IV service of the Motor Vehicles Department, Himachal Pradesh.
- (ii) the qualifications necessary for appointment to such service and posts; and
- (iii) the conditions of service of persons appointed to such service and posts for the purposes of probation, confirmation, seniority and promotion.

RECRUITMENT RULES

PART I

GENERAL

1. *Short title and commencement.*—(a) These rules may be called the Himachal Pradesh, Motor Vehicles Department, Class-IV Service (Recruitment, Promotion and Certain Conditions of Service) Rules, 1973.

(b) These rules shall come into force from the date of their publication in the Official Gazette.

2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context:—

- (a) "Government" means the Himachal Pradesh Government.
- (b) "Secretary" means the Secretary, State Transport Authority, Himachal Pradesh.
- (c) "Recognised School" means any recognised school run by the Government or by a local body or declared or recognised by the Government;
- (d) "Service" means the Himachal Pradesh, Motor Vehicles Department, Class IV Service;
- (e) "Direct appointment" means an appointment made otherwise than by promotion from amongst the members of service or by transfer of an official already in the service of the Himachal Pradesh Government or of the Union;
- (f) "Scheduled Caste" means castes, races or tribes or parts of groups within castes, races or tribes specified in the Constitution (Scheduled Castes) order, 1950, as amended by section 19(1) read with the First Schedule of the State of Himachal Pradesh Act, 1970 (53 of 1970) and as it may further be amended from time to time;
- (g) "Scheduled Tribes" means the tribes or tribal communities or parts of, or groups within tribes of tribal communities specified in the Schedule to the Constitution (Scheduled Tribes) Order, 1950 as amended by section 20(1) read with the Third Schedule of the State of Himachal Pradesh Act, 1970 (53 of 1970) as it may further be amended from time to time;
- (h) "Member" means a member of Himachal Pradesh, Motor Vehicles Department, Class IV Service;
- (i) "Departmental Promotion Committee" means the Departmental Promotion Committee constituted by the Government;
- (j) "Appointing Authority" means the Authority competent to order appointments to the categories of posts in the service;

PART II

RECRUITMENT TO SERVICE

3. *Character of posts.*—The Character (i.e., designation,

category, grade etc.) of the various posts included in the service and their rates of pay shall be as indicated in Appendix 'A' to these rules and as revised from time to time by the Government.

4. *Authority empowered to make appointment.*—All appointments to the posts shall be made by the Secretary, State Transport Authority, Himachal Pradesh, or any authority declared as the Appointing Authority.

5. *Nationality eligibility and age etc.*—(1) No person shall be eligible for appointment to any post in the service unless:—

- (a) a citizen of India; or
- (b) a subject of Sikkim, or
- (c) a subject of Nepal, or
- (d) a subject of Bhutan, or
- (e) a Tibetan Refugee who came over to India before 1st January, 1962 with the intention of permanently settling in India, or
- (f) a person of Indian origin who has migrated from Pakistan with the intention of permanently settling in India;

Provided that a candidate belonging to categories (c), (d), (e) and (f) shall be a person in whose favour a certificate of eligibility has been given by the Government of India:

Provided further that if he belongs to category (f), the certificates of eligibility will be valid for a period of one year from the date of his appointment, after which such a candidate will be retained in service subject to his having acquired the Indian citizenship.

A candidate in whose case a certificate of eligibility is necessary, may be admitted to an examination or interview and he may also be appointed provisionally by the Government subject to the production of the necessary eligibility certificate from the Government of India.

(2) Unless he is already in Government Service, a candidate shall be required to produce:—

- (a) a certificate of good moral character from the Head of his educational or technical institution last attended;
- (b) certificate of good moral character from two responsible persons not being his relatives, who are well acquainted with him in private life, and unconnected with his school or other educational institution;
- (c) a medical certificate, as required under the rules;
- (d) a declaration to the effect that he has not more than one living wife;

No person who has more than one wife living or having a spouse living married in any case in which such marriage is void by reasons of its taking place during the lifetime of such spouse, shall be eligible for appointment to the service;

- (r) in the case of female Government servant, a declaration to the effect that she has not married a person having already a living wife;
- (f) no woman whose marriage is void by reasons of the husband having a wife living at the time of such marriage or who has married a person who has a wife living at the time of such marriage, shall be eligible for appointment to service;

Provided that the competent authority may, if satisfied that there are special grounds for doing so, exempt any person from the operation of sub-rule 2(d) of Rule 5 above.

(3) A candidate must not be less than 18 years and more than 27 years of age on the date of his appointment:

Provided further that the minimum and maximum age limit as prescribed above can be relaxed in accordance with the provisions of Rules in force:

Provided further that the maximum age limit may be relaxed in the case of Scheduled Castes and Scheduled Tribes candidates displaced and other special categories in accordance with the instructions issued by the Government in that behalf from time to time.

6. Verification of Antecedents.—Antecedents of all persons appointed by direct recruitment shall be verified immediately and those appointed by transfer and whose antecedents have not been verified previously, shall also be sent for verification immediately after such person join the post(s) in the Department.

7. Educational qualifications of candidates.—No person shall be appointed to the service, unless in the case of appointment to the post of:

- (i) *Peon*.—He has passed Middle standard examination or above of a recognised school.
- (ii) *Chowkidar*.—He has passed Middle standard examination or above of a recognised school or above.
- (iii) *Sweeper*.—He has a knowledge of reading and writing Hindi:

Provided that the conditions as prescribed above may be relaxed by orders of the appointing authority in case the persons of requisite qualifications for appointment to Class IV service are not available through the Employment Exchanges.

8. Method of recruitment.—Posts in the service shall be filled either by direct appointment or by transfer or by deputation from other Departments of Governments in the following manner:—

- (i) *Peons*.—By direct recruitment or by transfer of a person already in the service of the Government or of the Union.
- (ii) *Chowkidars*.—By direct recruitment or by way of transfer of a person already in the service of the Government.
- (iii) *Sweepers*.—By direct recruitment.

Saving.—Nothing in these rules shall affect reservations and other concessions required to be provided for scheduled castes and scheduled tribes and other special categories of persons in accordance with the orders issued by the State Government from time to time in this regard.

9. Departmental Promotion Committee.—The Departmental Promotion Committee/Selection Committee shall be as constituted and notified by the Government.

PART III

CONDITIONS OF SERVICE

10. Probation of Members of Service.—(i) Members of the service who are appointed against permanent vacancies shall, on appointment to any post in the service, remain on probation for a period of two years.

Explanation.—Approved officiating service shall be taken as a period spent on probation but no member who is officiating in any appointment shall on the completion of the probationary period prescribed, be confirmed until he is appointed against a permanent vacancy.

(ii) If the work or conduct of any member during this period of probation is, in the opinion of the appointing authority, not satisfactory, the appointing authority may dispense with his service or revert him to his former

post if he has been appointed to that post otherwise than by direct recruitment.

(iii) On the completion of the period of probation of any member, the appointing authority prescribed in rule 4, may confirm such member in his appointment or if his work or conduct has, in the opinion of the appointing authority, not been satisfactory, may dispense with his services, or revert him to his former post, if he has been appointed otherwise than by direct recruitment, or may extend the period of probation and thereafter pass such orders on the expiry of the extended period of probation as it could have passed on the expiry of the first period of probation:

Provided always, that the total period of probation including extension, if any shall not exceed four years.

11. Scale of Pay etc. of Members of Service.—The Grades of pay of each class of service are mentioned in Appendix 'A' provided that nothing herein contained shall be deemed to divert the Government of their inherent right to change the scale of pay either permanently or temporarily as they may deem fit.

12. Discipline.—In respect of discipline, punishment and appeals, the members of the service shall be governed by the provisions of the rules made applicable to Himachal Pradesh Services from time to time.

13. Promotion to Class III Services.—Every Class IV Government employee already in service of the Motor Vehicles Department, Himachal Pradesh, shall be considered for promotion along with the direct candidates provided he fulfils the prescribed educational qualifications and other essential conditions of service.

14. Seniority of Members of Service.—The seniority of the persons appointed in a substantive or officiating capacity to a grade, prior to the issue of these rules, shall retain the relative seniority already assigned to them under the existing orders, applicable to their cases and shall *en bloc* be senior to all others in that grade.

Explanation.—For the purposes of these rules:—

- (a) persons who are confirmed retrospectively with effect from a date earlier than the issue of these rules;
 - (b) persons appointed on probation to a permanent post substantially vacant in a grade prior to the issue of these rules;
- shall be considered to be permanent officials of the grade.

(2) Subject to the provisions of paragraph (1) and (3) permanent officials of each grade shall be ranked senior to persons who are officiating in the grade.

(3) **Direct Recruits.**—Notwithstanding the provisions of rule (2) above, the relative seniority of all direct recruits shall be determined by the order of merit in which they are selected for such appointment on the recommendations of the selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of a subsequent selection:

- (i) Provided that where persons recruited initially on a temporary basis are confirmed subsequently in an order different from the order of merit indicated at the time of their appointment seniority shall follow, the order of confirmation and not the original order of merit;
- (ii) Provided further that a person who does not join within the specified period shall lose his seniority according to the select list and shall rank in the seniority next to the person who joined earlier;
- (iii) Provided further that he shall not lose his seniority, if the fact of his joining later was caused by

circumstances beyond his control and for reasons to be recorded in writing, the appointing authority is satisfied that this was so.

(4) *Transfer.*—The relative seniority of persons appointed by transfer to the service from the other office or the Centre Government or the other Departments of the Government shall be determined in accordance with the order of their selection for such transfer.

(5) *Relative seniority of direct recruits and transferees.*—Transferees shall be senior to direct recruits appointed on the same date.

15. *Leave and Pension etc.*—In respect of leave, pension and other cognate matters not specifically mentioned in these rules, the members of the Service shall be governed by the Rules applicable to the employees of Himachal Pradesh from time to time, unless one has already exercised option otherwise.

16. *Other Conditions of Service.*—In respect of conditions of service other than those covered by these rules, members of the services shall be governed by the rules applicable to similar service in Himachal Pradesh.

17. *Liability to transfer.*—Every member of service shall be liable to be transferred under the orders of the competent authority any where within the State of Himachal Pradesh or any other part in India, where he/she may be required to proceed under the administrative control of the Government of Himachal Pradesh.

18. *Power of relaxation.*—Where the Government is of the opinion that it is necessary or expedient to do so, it may, by order, for reasons to be recorded in writing relax any of the provisions of these rules with respect to any class or category of persons.

19. *Repeal.*—The provisions made for these services under the rules promulgated with the Himachal Pradesh Finance Department notification No. 8/28/60-FIN(R&E), dated the 12th July, 1972 and subsequently amended from time to time, are hereby repealed in so far as they relate to the Class IV employees:

Provided that such repeal shall not affect the previous operation of the said rules or anything done or any action taken thereunder.

ANNEXURE 'A' (See Rule 3)

Sl. No.	Description and categories of posts	Scale of post (Rs.)	Existing cadre
1	2	3	4
1.	Peons	Rs. 70-2-80/3-95	7
2.	Chowkidars	Rs. 70-2-80/3-95	2
3.	Sweepers	Rs. 70-2-80/3-95	2

ANNEXURE 'B' (See Rule 5)

Certified that Shri/Shrimati.....
son/daughter of Shri.....resident of

Village....., Police Station.....
District....., State.....
is personally known to me for the last..... years
and on the basis of the particulars furnished by him,
he/she bears good moral character.

Shri/Shrimati.....is not related to me.

1. Signature.

Designation.

2. Signature.

Designation.

H. S. DUBEY,
Secretary.

TRANSPORT DEPARTMENT

NOTIFICATION

Simla-1, the 26th September, 1973

No. HO:11-20/73 (Pt).—Whereas the State Transport, Undertaking, namely the Himachal Government Transport, is of the opinion that for the purpose of providing an efficient, adequate, economical and properly co-ordinate/passenger road transport service, it is necessary in the public interest that such services, in relation to the routes mentioned in the annexure appended hereto should run and operated by such Undertaking to the complete exclusion of other persons as hereinafter mentioned.

Now, therefore, in exercise of the powers conferred by section 68-C of the Motor Vehicles Act, 1939 (Central Act 4 of 1939), the following scheme prepared by the State Transport Undertaking, namely Himachal Government Transport Department, is hereby published for the information of the persons likely to be affected by the schemes:—

SCHEMES

The passenger road transport service (plying of stage carriages) shall be run and operated by the State Transport Undertaking, namely Himachal Government Transport Department, in relation to the routes mentioned in the annexure appended hereto and to the extent mentioned therein to the complete exclusion of other persons as mentioned in that annexure.

The scheme will be taken into consideration after the expiry of a period of 30 days from the date of publication of this notification in the Official Gazette together with any objections which may be filed by any person(s) affected by the scheme before the State Government in the Transport Department, Himachal Pradesh, Simla-2, within the aforesaid period of 30 days.

ANNEXURE

Sl. No.	Name of route	No. of trips return daily	Extent
1	2	3	4
1.	Una-Daulatpur via Gagret	2	Single Trips
2.	Una-Daulatpur via Amb	2	"
3.	Nangal-Pong Dam	2	"

To the complete exclusion of other persons running and operating their stage

1	2	3	4
4. Nangal-Dharamsala	2	Single Trips	carriages on the routes,
5. Nangal-Chauri	2	"	provided that nothing in
6. Nangal-Awahdevi	2	"	the scheme shall affect the
7. Nangal-Sujanpur	1	"	services of persons of any
8. Nangal-Talwara	1	"	State, other than the State
9. Nangal-Palampur	2	"	of Himachal Pradesh or
10. Nangal-Baijnath	2	"	any Union territory and
11. Nangal-Talwara	2	"	operating on the routes by
12. Nangal-Sujanpur	1	"	virtue of any other State
13. Nangal-Sujanpur	1	"	agreement.
14. Hoshiarpur-Hamirpur via Una	2	"	-do-
15. Hoshiarpur-Bhareri	1	"	-do-
16. Hoshiarpur-Jahu via Una	1	"	-do-
17. Hoshiarpur-Jahu via Una	2	"	-do-
18. Hoshiarpur-Una-Hamirpur via Baijhari	2	"	-do-
19. Hoshiarpur-Sujanpur	2	"	-do-
20. Hoshiarpur-Nangal	6	"	-do-
21. Hoshiarpur-Jaijon-Nangal	1	"	-do-
22. Hoshiarpur-Una-Jaijon	2	"	-do-
23. Hoshiarpur-Panjwar	2	"	-do-
24. Daulatpur-Talai	1	"	-do-
25. Bhadarkali-Santokhgarh via Amb-Una	4	"	-do-
26. Rey-Bhakra	2	"	-do-
27. Jaijon-Dulhar via Nangal-Una	2	"	-do-
28. Santokhgarh-Una	4	"	-do-
29. Una-Abiana via Santokhgarh	1	"	-do-
30. Una-Sujanpur via Santla	1	"	-do-
31. Hamirpur-Talwara via Una	1	"	-do-

S. K. ALOK, I.A.S.,
Transport Commissioner.

भाग 4—स्थानीय स्वायत्त शासन: म्यूनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड, नोटिफाइड ग्रौर टाउन एरिया तथा पंचायत विभाग

LOCAL SELF GOVERNMENT DEPARTMENT NOTIFICATION

Kulu, the 3rd September, 1973

No. 601/LFA.—In pursuance of the provisions of section 23 of the Himachal Pradesh Municipal Act, 1968,

it is hereby notified that Shri Kuldeep Chand, member has been elected as President of the Municipal Committee Sultanpur (Kulu) in Kulu district.

G. S. CHAMBIAL,
Deputy Commissioner, Kulu.

भाग 5—वैयक्तिक अधिसूचनाएं और विज्ञापन

HIMACHAL PRADESH MARKETING BOARD (MARKET COMMITTEE) NOTIFICATIONS

Simla-5, the 31st August, 1973

No. HMB-3/72(II)/352.—In exercise of the powers conferred by sub-sections (2) and (3) of section 10 of the Himachal Pradesh Agricultural Produce Markets Act, 1969 (Act No. 9 of 1970), and all other powers enabling the Board in this behalf, the Himachal Pradesh Marketing Board hereby appoint the persons mentioned in columns 2, 3 and 4 of the schedule as members of the Market Committee, Paonta:—

SCHEDULE

Name of the Market Area	Producers	Dealers	Official
Market Committee Paonta	(1) Shri Balbir Singh, Lambardar, Tehsil Paonta. (2) Shri Sunder Singh, Village Nihalgarh. (3) Shri Jagmohan Singh, Village Khiari, P. O. Trilok Pur, Nahan. (4) Shri Tulsi Ram, Village and P. O. Nohra, Tehsil Renuka. (5) Shri Jati Ram, Village and P. O. Tikkri Dasakana, Tehsil Renuka.	The names of 3 dealers shall be notified later on.	1. Sub-Divisional Magistrate, Paonta.

Simla-5, the 31st August, 1973

No. HMB-3/72-(II)/353. -In exercise of the powers conferred by sections 9 and 10 of the Himachal Pradesh Agricultural Produce Markets Act, 1969 (Act No. 9 of 1970), and all other powers enabling the Board in this behalf, the Himachal Pradesh Marketing Board hereby direct that a Market Committee shall be established for the notified market area in Sirmur district notified as such vide Himachal Pradesh Marketing Board notification No. HMB-3/72-(II), dated the 10th January, 1973 published in the Himachal Pradesh Government Gazette, dated the 27th January, 1973 and specified in Vol. 2 of the schedule given below with its headquarter at a place mentioned in col. 3 against such Committee which shall consist of such number of members as are specified in col. 4, thereof:—

SCHEDULE

District	Name of the notified market area	Place where headquarter located	No. of members of the Market Committee
Sirmur	Paonta	Paonta	9

B. S. JOGI,
Chairman.

In the Court of Senior Sub-Judge, Solan
exercising the power of Sub-Judge, 1st Class, Kandaghat

Sunder Sham Singh son of Shri Tani Ram, resident
of village Guman (Parwanu), Tehsil Kasauli, District
Solan ..Petitioner.

Versus

General Public ..Respondent.

PETITION BY THE (FATHER) NATURAL GUARDIAN FOR THE PERMISSION TO MORTGAGE IMMOVABLE PROPERTY OF THE MINOR FOR THE WELFARE AND BENEFIT OF THE MINOR U/O 8 OF THE HINDU MINORITY AND GUARDIANSHIP ACT, 1956

To

The General Public.

WHEREAS, the above mentioned application has been filed into this Court by the above-named applicant Shri Sunder Sham Singh for the grant of permission to mortgage immovable property of the minor Shri Sunder Sham Singh son of Shri Tani Ram, resident of village Guman (Parwanu), Tehsil Kasauli, District Solan, comprised in khewat No. 8, khatauni No. 10 min, khasra No. 80/4 measuring 7 bighas 2 biswas, situated at Guman (Parwanu), Pargana Bhaget, Tehsil Kasauli, District Solan, Himachal Pradesh wherein the share of the minor is 33/100.

NOTICE is hereby, issued for the information of the general public, requiring to appear in this court on 17-11-1973 at 10 A.M. at Kandaghat, personally or through pleader and to file objection if any to the grant of requisite permission. In default of appearance of any one, on the date fixed, the said permission will be granted *ex parte* in favour of the applicant/petitioner mentioned above.

GIVEN under my hand and the seal of the Court
this 14th day of September, 1973.

Seal.

R. L. KHURANA,
Senior Sub-Judge, Solan at Kandaghat.

NOTICE UNDER ORDER 5, RULE 20, C.P.C.

In the Court of Shri R. L. Khurana, Senior Sub-Judge, Solan
(Empowered under Indian Succession Act)

PETITION No. 2/3 OF 1973

Shri Kishan s/o Shri Mandroo, caste Balmiki, r/o
Solan: ..Petitioner.

Versus

1. Shri Ram Parshad son of Shri Mandroo, Head
Jamadar, Panjab University, House No. 163-A, Sector-14, Chandigarh.

2. General Public.

In the matter of grant of Succession Certificate in respect of the death etc. of Shri Ram Swarup deceased, under section 372 of Indian Succession Act

To

1. General Public.

2. Shri Ram Parshad son of Shri Mandroo, Head
Jamadar, Panjab University, House No. 163-A, Sector-14, Chandigarh.

Whereas in the above mentioned application Shri Kishan has filed an application for the grant of Succession Certificate for the property left behind by Shri Ram Swarup deceased. Notice is hereby issued for the information of the general public, who is required to appear in this Court on 1st November, 1973 at 10 A.M. in person or through pleader and to file objection if any with regards to the grant of Succession Certificate to Shri Kishan above applicant. In default of appearance of any one of the fixed the certificate will be granted *ex parte* in favour of Shri Kishan the applicant.

Given under my hand and the seal of the Court, this
19th day of September, 1973.

Seal.

R. L. KHURANA,
Senior Sub-Judge, Solan.

भाग 6—भारतीय राजपत्र इत्यादि में से पुनः प्रकाशन

LAW DEPARTMENT NOTIFICATION

Simla-2, the 23rd November, 1967

No. 8-1/67-LR.—The following Ordinance recently promulgated by the President of India, and published in the Gazette of India, Extraordinary Part-II, Section-I, dated 7-10-1967, is hereby republished in the Himachal Pradesh Rajpatra for the information of general public:—
The Court-fee (Delhi Amendment) Ordinance, 1967 (7 of 1967).

JOSEPH DINA NATH,
Under Secretary (Judicial).

THE COURT-FEES (DELHI AMENDMENT) ORDINANCE, 1967 (No. 7 OF 1967)

Promulgated by the President in the Eighteenth Year of the Republic of India.

An Ordinance further to amend the Court-fees Act, 1870 as in force in the Union territory of Delhi.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Court-fees (Delhi Amendment) Ordinance, 1967.

(2) It extends to the whole of the Union territory of Delhi.

(3) It shall come into force at once.

2. *Act 7 of 1870, as in force in Delhi, to be temporarily amended.*—During the period of operation of this Ordinance, the Court-fees Act, 1870, as in force in the Union territory of Delhi (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 and 4.

3. *Amendment of section 4.*—In section 4 of the principal Act,—

(a) in the marginal heading to the first paragraph, for the words “in High Courts in their extraordinary jurisdiction”, the words “in High Court of Delhi in its ordinary or extraordinary jurisdiction” shall be substituted;

(b) In the first paragraph, for the words “any of the said High Courts in any case coming before such Court in the exercise of its extraordinary original civil jurisdiction”, the words “the High Court of Delhi in any case coming before that court in the exercise of its ordinary or extraordinary original civil jurisdiction” shall be substituted;

(c) in the third paragraph, for the words “other than”, the word “including” shall be substituted;

(d) after the fifth paragraph “or in the exercise of its jurisdiction as a Court of reference or revision;”, the following paragraphs shall be inserted, namely:—

In the exercise of jurisdiction to issue writs, etc.—
“or in the exercise of its jurisdiction to issue directions,

orders or writs under the Constitution of India;

In the exercise of any other jurisdiction. Or in the exercise of its jurisdiction in any other matter;”

4. *Amendment of Schedule II.*—In Schedule II to the principal Act, in clause (d) of Article 1, after sub-clause (ii) the following clause should be inserted, namely:—

“(ii-A) Under article 226 of the Constitution of India other than petitions for *habeas corpus* and petitions arising out of criminal proceedings. Fifty rupees”.

5. *Levy of fees in suits, etc, instituted before commencement of this Ordinance.*—(1) Notwithstanding anything contained in the principal Act or in the principal Act as amended by this Ordinance, fees shall be levied in suits or other proceedings instituted on or after the 31st day of October, 1966 and pending immediately before the commencement of this Ordinance in the High Court of Delhi by virtue, and in the exercise, of its ordinary original civil jurisdiction as if the principal Act, as amended by this Ordinance, had been in force on the respective dates on which such suits or proceedings were instituted.

(2) Any fees levied in respect of suits or other proceedings instituted before the High Court of Delhi by virtue, and in the exercise, of its ordinary original civil jurisdiction, on or after the 31st day of October, 1966 and disposed of before the commencement of this Ordinance shall be deemed to have been levied in accordance with law.

ZAKIR HUSAIN,
President.

V. N. BHATIA,
Secy. to the Govt. of India.

LAW DEPARTMENT NOTIFICATION

Simla-2, the 14th August, 1967

No. 8-1/65-LR-II.—The following Ordinances recently promulgated by the President of India and already published in the Gazette of India Extraordinary Part II, Section I are hereby re-published in the Himachal Pradesh Rajpatra for the information of general public:—

1. The Anti-Corruption Laws (Amendment) Ordinance, 1967 (No. 3 of 1967).

2. The Passport Ordinance, 1967 (No. 4 of 1967).

JOSEPH DINA NATH,
Under Secretary (Judicial).

THE ANTI-CORRUPTION LAWS (AMENDMENT) ORDINANCE, 1967

(No. 3, OF 1967)

Promulgated by the President in the Eighteenth Year of the Republic of India.

An Ordinance further to amend the Anti-corruption laws.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred

by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. *Short title and commencement.*—(1) This Ordinance may be called the Anti-Corruption Laws (Amendment) Ordinance, 1967.

(2) It shall come into force at once.

2. *Amendment of anti-corruption law in relation to certain pending trials.*—(1) Notwithstanding—

(a) the substitution of new provisions for sub-section (3) of section (5) of the Prevention of Corruption Act, 1947 (2 of 1947) (hereinafter referred to as the 1947-Act) by section 6 (2) (c) of the Anti-Corruption Laws (Amendment) Act, 1964 (40 of 1964) (hereinafter referred to as the 1964-Act); and

(b) any judgement or order of any court,

the said sub-section (3) as it stood immediately before the commencement of the 1964-Act, shall apply and shall be deemed always to have applied to and in relation to trials of offences punishable under sub-section (2) of section 5 of the 1947-Act pending before any court immediately before such commencement as if no such new provisions had been substituted for the said sub-section (3).

(2) The accused person in any trial to and in relation to which sub-section (1) applies may, at the earliest opportunity available to him after the commencement of this Ordinance, demand that the trial of the offence should proceed from the stage at which it was immediately before the commencement of the 1964-Act and on any such demand being made the court shall proceed with the trial from that stage.

(3) For the removal of doubt it is hereby provided that any court—

(i) before which an appeal or application for revision against any judgement, order or sentence passed or made in any trial to which sub-section (1) applies is pending immediately before the commencement of this Ordinance, or

(ii) before which an appeal or application for revision against any judgment, order or sentence passed or made before the commencement of this Ordinance in any such trial, is filed after such commencement,

shall remand the case for trial in conformity with the provisions of this section.

S. RADHAKRISHNAN,
President.

S. P. SEN-VERMA,
Secretary to the Govt. of India.

THE PASSPORTS ORDINANCE, 1967

(No. 4 OF 1967)

Promulgated by the President in the Eighteenth Year of the Republic of India.

An Ordinance to provide for the issue of passports and travel documents, to regulate the departure from India of citizens of India and other persons and for matters incidental or ancillary thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Passports Ordinance,

1967.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(a) “departure”, with its grammatical variations and cognate expressions, means departure from India by water, land or air;

(b) “passport” means a passport issued under this Ordinance.

Explanation.—For the purposes of section 3, “passport” includes a passport which having been issued by or under the authority of the Government of a foreign country satisfies the conditions prescribed under the Passport (Entry into India) Act, 1920, (34 of 1920, in respect of the class of passports to which it belongs;

(c) “passport authority” means an officer or authority empowered under rules made under this Ordinance to issue passports or travel documents and includes the Central Government;

(d) “prescribed” means prescribed by rules made under this Ordinance;

(e) “travel document” means a certificate referred to in sub-section (2) of section 4.

Explanation.—For the purposes of section 3, “travel document” includes a certificate which being issued by or under the authority of the Government of a foreign country satisfies the conditions prescribed.

3. *Passport or travel document for departure from India.*—No person shall depart from, or attempt to depart from India unless he holds in this behalf a passport or travel document.

4. *Classes of passports and travel documents.*—(1) The following classes of passports may be issued under this Ordinance, namely:—

(a) ordinary passport;

(b) official passport;

(c) diplomatic passport.

(2) The following classes of travel documents may be issued under this Ordinance, namely:—

(a) emergency certificate authorising a person to enter India;

(b) certificate of identity for the purpose of establishing the identity of a person;

(c) such other certificate as may be prescribed.

(3) The Central Government shall, in consonance with the usage and practice followed by it in this behalf, prescribe the classes of persons to whom the classes of passports and travel documents referred to respectively in sub-section (1) and sub-section (2) may be issued under this Ordinance.

5. *Issue of passports and travel documents.*—(1) An application for the issue of a passport or a travel document under this Ordinance, or for an endorsement on such passport or travel document, for visiting such foreign country or countries as may be specified in the application may be made to the passport authority and shall be in such form, contain such particulars and be accompanied by such fee (if any) not exceeding rupees twenty five as may be prescribed.

(2) On receipt of an application, the passport authority, after making such inquiry, if any, as it may consider necessary, shall subject to the other provisions of this Ordinance, by order in writing,—

(a) issue the passport or travel document with endorsement, or, as the case may be, make on the passport or travel document, the endorsement, in

respect of the foreign country or countries specified in the application; or

(b) issue the passport or travel document with endorsement, or, as the case may be, make on the passport or travel document the endorsement, in respect of one or more of the foreign countries specified in the application and refuse to make an endorsement in respect of the other country or countries; or

(c) refuse to issue the passport or travel document.

(3) Where the passport authority makes an order under clause (b) or clause (c) of sub-section (2) on the application of any person, it shall record in writing a brief statement of its reasons for making such order and furnish to that person on demand a copy of the same unless in any case the passport authority is of the opinion that it will not be in the interests of the sovereignty and integrity of India, the security of India friendly relations of India with any foreign State or in the interests of the general public to furnish such copy.

6. *Refusal of passport, travel documents etc.*—(1) Subject to the other provisions of this Ordinance, the passport authority shall refuse to make an endorsement for visiting any foreign country under clause (b) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely:—

(a) that the applicant may, or is likely to engage in such country in activities prejudicial to the sovereignty and integrity of India;

(b) that the presence of the applicant in such country may, or is likely to, be detrimental to the security of India;

(c) that the presence of the applicant in such country may, or is likely to, prejudice the friendly relations of India with any foreign State;

(d) that in the opinion of the Central Government the presence of the applicant in such country is not in the public interest.

(2) Subject to the other provisions of this Ordinance, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely:—

(a) that the applicant is not a citizen of India;

(b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India;

(c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;

(d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign State;

(e) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence and sentenced to imprisonment for not less than two years;

(f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;

(g) that the applicant has no adequate means of supporting himself outside India consistently with his dignity and self-respect as a citizen of India;

(h) that the applicant has been repatriated and has not reimbursed the expenditure incurred in con-

nection with such repatriation;

(i) that in the opinion of the Central Government the issue of a passport to the applicant will not be in the public interest.

7. *Duration of passports and travel documents.*—A passport or travel document issued under section 5 shall unless revoked earlier, continue in force for such period as may be prescribed and different periods may be prescribed for different classes of passports and travel documents:

Provided that a passport or a travel document may be issued for a shorter period than the prescribed period—

(a) if the person by whom it is required so desires; or

(b) if the passport authority, for reasons to be communicated in writing to the applicant, considers in any case that the passport or travel document should be issued for a shorter period.

8. *Renewal of passports.*—Every passport shall, unless the passport authority for reasons to be recorded in writing otherwise determines in any case, be renewable for the same period for which the passport was originally issued and shall be so renewable from time to time and the provisions of this Ordinance (including the provisions as to fees) shall apply to the renewal of a passport as they apply to the issue thereof.

9. *Conditions and forms of Passports and travel documents.*—The conditions subject to which, and the form in which, a passport or travel document shall be issued or renewed shall be such as may be prescribed:

Provided that different conditions and different form may be prescribed for different classes of passports or travel documents:

Provided further that a passport or travel document may contain in addition to the prescribed conditions such other conditions as the passport authority may, with the previous approval of the Central Government impose in any particular case.

10. *Variation impounding and revocation of passports and travel documents.*—(1) The passport authority may vary or cancel the endorsements on a passport or travel document or with the previous approval of the Central Government vary or cancel the conditions (other than the prescribed conditions) subject to which a passport or travel document has been issued and may, for that purpose, require the holder of a passport or a travel document, by notice in writing, to deliver up the passport or travel document to it within such time as may be specified in the notice.

(2) The passport authority may, on the application of the holder of a passport or a travel document, also vary or cancel the conditions (other than the prescribed conditions) of the passport or travel document.

(3) The passport authority may impound or cause to be impounded or revoke a passport or a travel document,—

(a) if the passport authority is satisfied that the holder of the passport or travel document is in wrongful possession thereof;

(b) if the passport or travel document was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the passport or travel document or any other person on his behalf;

(c) if the passport authority deems it necessary so to do in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign State, or in the interests of

the general public;

(d) if any of the conditions of the passport or travel document has been contravened;

(e) if the holder of the passport or travel document has failed to comply with a notice under sub-section (1) requiring him to deliver up the same;

(f) if it is brought to the notice of the passport authority that a warrant of summons for the appearance, or a warrant for the arrest, of the holder of the passport or travel document has been issued by a court under any law for the time being in force or if an order prohibiting the departure from India of the holder of the passport or other travel document has been made by any such court and the passport authority is satisfied that a warrant or summons has been so issued or an order has been so made.

(4) The passport authority may also revoke a passport or travel document on the application of the holder thereof.

(5) Where the passport authority makes an order varying or cancelling the endorsements on, or varying the conditions of, a passport or travel document under sub-section (1) or an order impounding or revoking a passport under sub-section (3), it shall record in writing a brief statement of the reasons for making such order and furnish to the holder of the passport or travel document on demand a copy of the same unless in any case, the passport authority is of the opinion that it will not be in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign State or in the interests of the general public to furnish such a copy.

(6) The authority to whom the passport authority is subordinate may, by order in writing, impound or cause to be impounded or revoke a passport or a travel document on any ground on which it may be impounded or revoked by the passport authority and the foregoing provisions of this section shall, as far as may be, apply in relation to the impounding or revocation of passport or travel document by such authority.

(7) A court convicting the holder of passport or travel document of any offence under this Ordinance or the rules made thereunder may also revoke the passport or travel document:

Provided that if the conviction is set aside on appeal or otherwise the revocation shall become void.

(8) An order of revocation under sub-section (7) may also be made by an appellate court or by the High Court when exercising its powers of revision.

(9) On the revocation of a passport or a travel document under this section the holder thereof shall without delay, surrender the passport or travel document, if the same has not already been impounded, to the authority by whom it has been revoked or to such other authority as may be specified in this behalf in the order of revocation.

11 Appeals.—(1) Any person aggrieved by an order of the passport authority under clause (b) or clause (c) of sub-section (2) of section 5 or clause (b) of the proviso to section 7 or sub-section (1) or sub-section (3) of section 10 of the authority to whom the passport authority is subordinate, may prefer an appeal against that order to such authority (hereinafter referred to as the appellate authority) and within such period as may be prescribed:

Provided that no appeal shall lie against any order made by the Central Government.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfied the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The period prescribed for an appeal shall be computed in accordance with the provisions of the Limitation Act, 1963, (36 of 1963), with respect to the computation of the periods of limitation thereunder.

(4) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a copy of the statement of the reasons for the order appealed against where such copy has been furnished to the appellant and by such fee (if any) not exceeding rupees twenty-five as may be prescribed.

(5) In disposing of an appeal, the appellate authority shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of representing his case.

(6) Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final.

12. Offences and penalties.—(1) Whoever—

(a) contravenes the provisions of section 3; or

(b) knowingly furnishes any false information or suppresses any material information with a view to obtaining a passport or a travel document under this Ordinance or alters or attempts to alter or causes to alter the entries made in a passport or travel document issued under this Ordinance; or

(c) fails to produce for inspection his passport or travel document (whether issued under this Ordinance or not) when called upon to do so by the prescribed authority; or

(d) knowingly uses a passport or a travel document issued to another person; or

(e) knowingly allows another person to use a passport or a travel document issued to him,

shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both.

(2) Whoever abets any offence punishable under sub-section (1) shall, if the act abetted is committed in consequence of the abetment, be punishable with the punishment provided in that sub-section for that offence.

(3) Whoever contravenes any condition of a passport or a travel document or any provision of this Ordinance or any rule made thereunder for which no punishment is provided elsewhere in this Ordinance shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

(4) Whoever, having been convicted of an offence under this Ordinance, is again convicted of an offence under this Ordinance shall be punishable with double the penalty provided for the latter offence.

13. Power to arrest.—(1) Any officer of customs empowered by a general or special order of the Central Government in this behalf and any officer of police not below the rank of a sub-inspector may arrest without warrant any person against whom a reasonable suspicion exists that he has committed any offence punishable under section 12 and shall, as soon as may be, inform him of the grounds for such arrest.

(2) Every officer making an arrest under the section shall, without unnecessary delay, take or send the person

arrested before a magistrate having jurisdiction in the case or to the officer in charge of the nearest police station and the provisions of section 61 of the Code of Criminal Procedure, 1898 (5 of 1898) shall, so far as may be, supply in the case or any such arrest.

14. Power of search and seizure.—(1) Any officer of customs empowered by a general or special order of the Central Government in this behalf and any officer of police not below the rank of a sub-inspector may search any place and seize any passport or travel document from any person against whom a reasonable suspicion exists that he has committed any offence punishable under section 12.

(2) The provisions of the Code of Criminal Procedure 1898 (5 of 1898), relating to searches and seizures shall, so far as may be, apply to searches and seizures under this section.

15. Previous sanction of Central Government necessary.—No prosecution shall be instituted against any person in respect of any offence under this Ordinance without the previous sanction of the Central Government or such officer or authority as may be authorized by that Government by order in writing in this behalf.

16. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Government or any officer or authority for anything which is in good faith done or intended to be done under this Ordinance.

17. Passports and travel documents to be property of Central Government.—A passport or travel document issued under this Ordinance shall at all times remain the property of the Central Government.

18. Passport and travel documents to be invalid for travel to certain countries.—Upon the issue of a notification by the Central Government that a foreign country is—

- (a) a country which is committing external aggression against India; or
- (b) a country assisting the country committing external aggression against India; or
- (c) a country where armed hostilities are in progress; or
- (d) a country to which travel must be restricted in the public interest because such travel would seriously impair the conduct of foreign affairs of the Government of India,

a passport or travel document issued under this Ordinance for travel through or visiting such country shall cease to be valid for such travel or visit unless in any case special endorsement in that behalf is made in the prescribed form by the prescribed authority.

19. Issue of passports and travel documents to persons who are not citizens of India.—Notwithstanding anything contained in the foregoing provisions relating to issue of a passport or a travel document, the Central Government may issue, or cause to be issued, a passport or a travel document to a person who is not a citizen of India if that Government is of the opinion that it is necessary so to do in the public interest.

20. Power to delegate.—The Central Government may, by notification in the Official Gazette, direct that any power or function which may be exercised or performed by it under this Ordinance other than the power under clause (d) of sub-section (1) of section 6 or the power under clause (i) sub-section (2) of that section or the power under section 23, may, in relation to such matter and subject to such conditions, if any, as it may specify in the notification, be exercised or performed by—

- (a) such officer or authority subordinate to

the Government; or

- (b) in any foreign country in which there is no diplomatic mission of India by such foreign Consular Officer,

as may be specified in the notification.

21. Power to exempt.—Where the Central Government is of the opinion that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette and subject to such conditions, if any, as it may specify in the notification,

- (a) exempt any person or class of persons from the operation of all or any of the provisions of this Ordinance or the rules made thereunder; and
- (b) as often as may be, cancel any such notification and again subject, by a like notification, the person or class of persons to the operation of such provisions.

22. Ordinance to be in addition to certain enactments.—The provisions of this Ordinance shall be in addition to and Ordinance not in derogation of the provisions of the Passport (Entry into India) Act, 1920, (34 of 1920) the Registration of Foreigners Act, 1939 (16 of 1939) the Foreigners Act, 1946, (31 of 1947) the Foreign Exchange Regulation Act, 1947, (7 of 1947) the Trading with the Enemy (Continuance of Emergency Provisions) Act, 1947, (16 of 1947) the Foreigners Law (Application and Amendment) Act, 1962, (42 of 1962) and other enactments relating to foreigners and foreign exchange.

23. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the appointment, jurisdiction, control and functions of passport authorities;
- (b) the classes of persons to whom passports and travel documents referred to respectively in sub-section (1) and sub-section (2) of section 4 may be issued;
- (c) the form and particulars of application for the issue or renewal of passport or travel document or for endorsement on a passport or a travel document and where the application is for the renewal, the time within which it shall be made;
- (d) the period for which passports and travel documents shall continue in force;
- (e) the form in which and the conditions subject to which the different classes of passports and travel documents may be issued, renewed, varied, impounded or revoked;
- (f) the fees payable in respect of any application for the issue or renewal of a passport or travel document or for varying any endorsement or making a fresh endorsement on a passport or a travel document or for issue of a duplicate passport or travel document and the fees payable in respect of any appeal under this Ordinance;
- (g) the appointment of appellate authorities under sub-section (1) of section 11, the jurisdiction of, and the procedure which may be followed by, such appellate authorities;
- (h) any other matter which is to be, or may be prescribed.

(3) Every rule made under this Ordinance shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately

following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

24. *Change of short title of Act.* 34 of 1920. In the Indian Passport Act, 1920, in sub-section (1) of section 1 for the words and figures "the Indian Passport Act, 1920" the words, brackets and figures "the Passport (Entry into India) Act, 1920" shall be substituted.

25. *Saving.* Every passport and every travel document issued by or under the authority of the Central Government before the commencement of this Ordinance and in force immediately before such commencement shall be deemed to have been issued under this Ordinance and shall subject to the provisions of this Ordinance, continue in force—

(a) for the unexpired portion of the period for which such passport or travel document had been issued; or

(b) for a period of five years from the commencement of this Ordinance.

whichever is shorter.

S. RADHAKRISHNAN,
President.

S. P. SEN-VARMA,
Secy. to the Govt. of India.

LAW DEPARTMENT NOTIFICATION

Simla-4, the 18th November, 1958

No. LR. 16-12/58. The Trade and Merchandise Marks Act, 1958 (No. 43 of 1958), recently passed by the Parliament of India and published in the Gazette of India, Extraordinary Part II, Section 1, dated 18th October, 1958 is hereby republished in the Himachal Pradesh Administration Gazette for the information of the general public

Sd/-

Under Secretary (Judicial).

Assented to on 17-10-1958.

THE TRADE AND MERCHANDISE MARKS ACT, 1958 (3 OF 1958)

AN ACT

to provide for the registration and better protection of trade marks and for the prevention of the use of fraudulent marks on merchandise.

Enacted by Parliament in the Ninth year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Trade and Merchandise Marks Act, 1958.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions and interpretation.*—(1) In this Act, unless the context otherwise requires,

(a) "assignment" means an assignment in writing by act of the parties concerned;

(b) "associated trade marks" mean trade marks deemed to be, or required to be, registered as associated trade marks under this Act;

(c) "certification trade mark" means a mark adapted in relation to any goods to distinguish, in the course of trade, goods certified by any person in respect of origin, material, mode of manufacture, quality, accuracy or other characteristic, from goods not so certified and registrable as such under the provisions of Chapter VIII in respect of those goods in the name, as proprietor of the certification trade mark, of that person;

(d) "deceptively similar":—A mark shall be deemed to be deceptively similar to another mark if it so nearly resembles that another mark as to be likely to deceive or cause confusion;

(e) "District Court" has the meaning assigned to it in the Code of Civil Procedure, 1908 (5 of 1908);

(f) "false trade description" means—

(i) a trade description which is untrue or misleading in a material respect as regards the goods to which it is applied; or

(ii) any alteration of a trade description as regards the goods to which it is applied, whether by way of addition, effacement or otherwise, where that alteration makes the description untrue or misleading in a material respect; or

(iii) any trade description which denotes or implies that there are contained, as regards the goods to which it is applied, more yards or meters than there are contained therein standard yards or standard metres; or

(iv) any marks or arrangement or combination thereof applied to goods in such manner as to be likely to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose merchandise or manufacture they really are;

(v) any false name or initials of a person applied to goods in such manner as if such name or initials were a trade description in any case where the name or initials—

(a) is or are not a trade mark or part of a trade mark; and

(b) is or are identical with or deceptively similar to the name or initials of a person carrying on business in connection with goods of the same description and who has not authorised the use of such name or initials; and

(c) is or are either the name or initials of a fictitious person or of some person not *bona fide* carrying on business in connection with such goods;

and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Act;

(g) "goods" means anything which is the subject of trade or manufacture;

(h) "High Court" means the High Court having jurisdiction under section 3;

(i) "limitations" (with its grammatical variations) means any limitations of the exclusive right to the use of a trade mark given by the registration of a person as proprietor thereof, including limitations of that right as to mode of use, as to use in relation to goods to be sold or otherwise traded in within India, or as to use in relation to goods to be exported to any market outside India;

(j) "mark" includes a device, brand, heading, label, ticket, name, signature, word, letter or numeral or any combination thereof;

(k) "name" includes any abbreviation of a name;

(l) "package" includes any case, box, container, covering, folder, receptacle, vessel, casket, bottle,

wrapper, label, band, ticket, reel, frame, capsule, cap, lid, stopper and cork;

(m) "permitted use", in relation to a registered trade mark, means the use of a trade mark—

(i) by a registered user of the trade mark in relation to goods—

(a) with which he is connected in the course of trade; and

(b) in respect of which the trade mark remains registered for the time being; and

(c) for which he is registered as registered user; and

(ii) which complies with any conditions or restrictions to which the registration of the trade mark is subject;

(n) "prescribed" means, in relation to proceedings before a High Court, prescribed by rules made by the High Court, and in other cases, prescribed by rules made under this Act;

(o) "register" means the Register of Trade Marks referred to in section 6;

(p) "registered" (with its grammatical variations) means registered under this Act;

(q) "registered proprietor", in relation to a trade mark, means the person for the time being entered in the register as proprietor of the trade mark;

(r) "registered trade mark" means a trade mark which is actually on the register;

(s) "registered user" means a person who is for the time being registered as such under section 49;

(t) "Registrar" means the Registrar of Trade Marks referred to in section 4;

(u) "trade description" means any description, statement or other indication, direct or indirect,—

(i) as to the number, quantity, measure, gauge or weight of any goods; or

(ii) as to the standard of quality of any goods, according to a classification commonly used or recognised in the trade; or

(iii) as to fitness for the purpose, strength, performance or behaviour of any goods, being "drug" as defined in the Drug Act, 1940, (23 of 1940) or "food" as defined in the Prevention of Food Adulteration Act, 1954 (37 of 1954); or

(iv) as to the place or country in which or the time at which any goods were made or produced; or

(v) as to the name and address or other indication of the identity of the manufacturer or of the person for whom the goods are manufactured; or

(vi) as to the mode of manufacture or producing any goods; or

(vii) as to the material of which any goods are composed; or

(viii) as to any goods being the subject of an existing patent, privilege or copyright;

and includes—

(a) any description as to the use of any mark which according to the custom of the trade is commonly taken to be an indication of any of the above matters;

(b) the description as to any imported goods contained in a bill of entry or shipping bill;

(c) any other description which is likely to be misunderstood or mistaken for all or any of the said matters;

(v) "trade mark" means—

(i) in relation to Chapter X (other than section 81), a registered trade mark or a mark used in relation to goods for the purpose of indicating or so as to indicate a connection in the course of trade between the goods and some person having the right as proprietor to use the mark; and

(ii) in relation to the other provisions of this Act, a mark used or proposed to be used in relation to goods for the purpose of indicating or so as to indicate a connection in the course of trade between the goods and some person having the right, either as proprietor or as registered user, to use the mark whether with or without any indication of the identity of that person, and includes a certification trade mark registered as such under the provisions of Chapter VIII;

(w) "transmission" means transmission by operation of law, devolution on the personal representative of a deceased person and any other mode of transfer, not being assignment;

(x) "tribunal" means the Registrar or, as the case may be, the High Court, before which the proceeding concerned is pending.

(2) In this Act, unless the context otherwise requires, any reference—

(a) to the use of a mark shall be construed as a reference to the use of a printed or other visual representation of the mark;

(b) to the use of a mark in relation to goods shall be construed as a reference to the use of the mark upon, or in any physical or in any other relation whatsoever, to such goods;

(c) to a registered trade mark shall be construed as including a reference to a trade mark registered in Part A of the register or Part B of the register, as the case may be;

(d) to the Registrar shall be construed as including a reference to any officer when discharging the functions of the Registrar in pursuance of sub-section (2) of section 4;

(e) to the Trade Marks Registry shall be construed as including a reference to any office of the Trade Marks Registry.

3. *High Court having jurisdiction.* The High Court having jurisdiction under this Act shall be the High Court within the limits of whose appellate jurisdiction the office of the Trade Marks Registry referred to in each of the following cases is situate, namely:

(a) in relation to a trade mark on the Register of Trade Marks at the commencement of this Act, the office of the Trade Marks Registry within whose territorial limits the principal place of business in India of the proprietor of the trade mark as entered in the register at such commencement is situate;

(b) in relation to a trade mark for which an application for registration is pending at or is made on or after the commencement of this Act, the office of the Trade Marks Registry within whose territorial limits the principal place of business in India of the applicant as disclosed in his application is situate;

(c) in relation to a trade mark registered in the names of joint proprietors before the commencement of this Act, the office of the Trade Marks Registry within whose territorial limits the principal place of business in India of the proprietor whose name is entered first in the register at such commencement as having such place of business is situate;

(d) in relation to a trade mark for which an application for registration in the names of joint proprietors is pending at or is made on or after the commencement of this Act, the office of the Trade Marks Registry within whose territorial limits the principal place of business in India of the proprietor whose name is first mentioned in the said application as having such place of business is situate;

(e) where the registered proprietor or the applicant for registration as aforesaid has no place of business

in India or where none of the jointly registered proprietors or none of the joint applicants as aforesaid has any place of business in India, the office of the Trade Marks Registry within whose territorial limits

(i) in relation to a trade mark on the Register of Trade Marks at the commencement of this Act, the place mentioned in the address for service in India as entered in the register at such commencement;

(ii) in relation to a trade mark for which an application for registration is pending at or is made on or after such commencement, the place mentioned in the address for service in India as specified in the application;

is situated.

CHAPTER II

THE REGISTER AND CONDITIONS FOR REGISTRATION

4. Registrar of Trade Marks.—(1) The Central Government may, by notification in the Official Gazette, appoint a person to be known as the Controller-General of Patents, Designs and Trade Marks, who shall be the Registrar for the purposes of this Act and the Controller of Patents and Designs for the purposes of the Indian Patents and Designs Act, 1911 (2 of 1911).

(2) The Central Government may appoint such other officers with such designations as it thinks fit for the purpose of discharging, under the superintendence and direction of the Registrar, such functions of the Registrar under this Act as he may from time to time authorise them to discharge.

5. Trade Marks Registry and offices thereof.—(1) For the purpose of this Act there shall be established a Registry which shall be known as the Trade Marks Registry.

(2) The head office of the Trade Marks Registry shall be at such place as the Central Government may specify, and for the purpose of facilitating the registration of trade marks, there may be established at such place as the Central Government may think fit branch offices of the Trade Marks Registry.

(3) The Central Government may, by notification in the Official Gazette, define the territorial limits within which an office of the Trade Marks Registry may exercise its functions.

(4) There shall be a seal of the Trade Marks Registry.

6. The Register of Trade Marks.—(1) For the purpose of this Act, a record called the Register of Trade Marks shall be kept at the head office of the Trade Marks Registry, wherein shall be entered all registered trade marks with the names, addresses and description of the proprietors, notifications of assignments and transmissions, the names, addresses and description of registered users, disclaimers, conditions, limitations and such other matters relating to registered trade marks as may be prescribed.

(2) No notice of any trust, express or implied or constructive, shall be entered in the register and no such notice shall be receivable by the Registrar.

(3) Subject to the superintendence and direction of the Central Government, the register shall be kept under the control and management of the Registrar.

(4) There shall be kept at each branch office of the Trade Marks Registry a copy of the register and such of the other documents mentioned in section 125 as the Central Government may, by notification in the Official Gazette, direct.

7. Part A and Part B of the Register.—(1) The register referred to in section 6 shall be divided into two Parts called respectively Part A and Part B.

(2) The Register of Trade Marks existing at the commencement of this Act shall be incorporated with and form part of Part A of the register, and this part shall comprise all trade marks entered in the Register of Trade Marks existing at the commencement of this act and all trade marks, which after such commencement may be entered in Part A of the Register.

(3) Part B of the register shall comprise all trade marks which after the commencement of this Act may be entered in Part B of the Register.

8. Registration to be in respect of particular goods.

(1) A trade mark may be registered in respect of any or all of the goods comprised in a prescribed class of goods.

(2) Any question arising as to the class within which any goods fall shall be determined by the Registrar whose decision in the matter shall be final.

9. Requisites for registration in Parts A and B of the register.—A trade mark shall not be registered in Part A of the register unless it contains or consists of at least one of the following essential particulars, namely:—

(a) the name of a company, individual or firm represented in a special or particular manner;

(b) the signature of the applicant for registration or some predecessor in his business;

(c) one or more invented words;

(d) one or more words having no direct reference to the character or quality of the goods and not being, according to its ordinary signification, a geographical name or a surname or a personal name or any common abbreviation thereof or the name of a sect, caste or tribe in India;

(e) any other distinctive mark.

(2) A name, signature or word, other than such as fall within the descriptions in clauses (a), (b), (c) and (d) of sub-section (1) shall not be registrable in Part A of the register except upon evidence of its distinctiveness.

(3) For the purposes of this Act, the expression "distinctive" in relation to the goods in respect of which a trade mark is proposed to be registered, means adapted to distinguish goods with which the proprietor of the trade mark is or may be connected in the course of trade from goods in the case of which no such connection subsists either generally or, where the trade mark is proposed to be registered subject to limitations, in relation to use within the extent of the registration.

(4) A trade mark shall not be registered in Part B of the register unless the trade mark in relation to the goods in respect of which it is proposed to be registered is distinctive, or is not distinctive but is capable of distinguishing goods with which the proprietor of a trade mark is or may be connected in the course of trade from goods in the case of which no such connection subsists, either generally or, where the trade mark is proposed to be registered subject to limitations, in relation to use within the extent of the registration.

(5) In determining whether a trade mark is distinctive or is capable of distinguishing as aforesaid, the tribunal may have regard to the extent to which—

(a) a trade mark is inherently distinctive or is inherently capable of distinguishing as aforesaid; and

(b) by reason of the use of the trade mark or of any other circumstances, the trade mark is in fact so adapted to distinguish or is in fact capable of distinguishing as aforesaid.

(6) Subject to the other provisions of this section, a trade mark in respect of any goods—

(a) registered in Part A of the register may be registered in Part B of the register; and

(b) registered in Part B of the register may be registered in Part A of the register;

in the name of the same proprietor of the same trade mark or any part or parts thereof.

10. Limitation as to colour.—(1) A trade mark may be limited wholly or in part to one or more specified colours, and any such limitation shall be taken into consideration by the tribunal having to decide on the distinctive character of the trade mark.

So far as a trade mark is registered without limitation of colour, it shall be deemed to be registered for all colours.

11. Prohibition of registration of certain marks.—A mark—

(a) the use of which would be likely to deceive or cause confusion; or

(b) the use of which would be contrary to any law for the time being in force; or

(c) which comprises or contains scandalous or obscene matter; or

(d) which comprises or contains any matter likely to hurt the religious susceptibilities of any class or section of the citizen of India; or

(e) which would otherwise be disentitled to protection in a court;

shall not be registered as a trade mark.

12. Prohibition of registration of identical or deceptively similar trade marks.—(1) Save as provided in sub-section (3), no trade mark shall be registered in respect of any goods or description of goods which is identical with or deceptively similar to a trade mark which is already registered in the name of a different proprietor in respect of the same goods or description of goods.

(2) Where separate applications are made by different persons to be registered as proprietors respectively of trade marks which are identical or nearly resemble each other in respect of the same goods or description of goods, the Registrar may defer the acceptance of the application or applications bearing a later date until after the determination of the proceedings in respect of the earlier application, and may dispose of such application or applications in the light of the evidence tendered in relation to earlier application and the oppositions thereto, if any.

(3) In case of honest concurrent use or of other special circumstances which, in the opinion of the Registrar, make it proper so to do, he may permit the registration by more than one proprietor of trade marks which are identical or nearly resemble each other (whether any such trade mark is already registered or not) in respect of the same goods or description of goods, subject to such conditions and limitations, if any, as the Registrar may think fit to impose.

13. Prohibition of registration of names of chemical elements.—(1) No word which is the commonly used and accepted name of any single chemical element or single chemical compound (as distinguished from a mixture) shall be registered as a trade mark in respect of a chemical substance or preparation, and any such registration shall, notwithstanding anything in section 32, be deemed for the purposes of section 56 to be an entry made in the register without sufficient cause or an entry wrongly remaining on the register, as the circumstances may require.

(2) This section shall not apply to a word which is used to denote only a brand or make of the element or compound as made by the proprietor or a registered user of the trade mark, as distinguished from the element or compound as made by others, and in association with a suitable name or description open to the public use.

14. Use of names and representations of living persons or persons recently dead.—Where an application is made for the registration of a trade mark which falsely suggests a connection with any living person, or a person whose death took place within twenty years prior to the date of application for registration of the trade mark, the Registrar may, before he proceeds with the application, require the applicant to furnish him with the consent in writing of such living person or, as the case may be, of the legal representative of the deceased person to the connection appearing on the trade mark, and may refuse to proceed with the application unless the application furnishes the Registrar with such consent.

15. Registration of parts of trade marks and of trade marks as a series.—(1) Where the proprietor of a trade mark claims to be entitled to the exclusive use of any part thereof separately, he may apply to register the whole and the part as separate trade marks.

(2) Each such separate trade mark shall satisfy all the conditions applying to, and have all the incidents of, an independent trade mark.

(3) Where a person claiming to be the proprietor of several trade marks in respect of the same goods or description of goods which, while resembling each other in the material particulars thereof, yet differ in respect of—

(a) statement of the goods in relation to which they are respectively used or proposed to be used; or

(b) statements of number, price, quality or names of places; or

(c) other matter of a non-distinctive character which does not substantially affect the identity of the trade mark; or

(d) colour;

seeks to register those trade marks, they may be registered as a series in one registration.

16. Registration of trade marks as associated trade marks.—(1) Where a trade mark which is registered, or is the subject of an application for registration, in respect of any goods is identical with another trade mark which is registered, or is the subject of an application for registration, in the same of the same proprietor in respect of the same goods or description of goods or so nearly resembles it as to be likely to deceive or cause confusion if used by a person other than the proprietor, the Registrar may, at any time, require that the trade marks shall be entered on the register as associated trade marks.

(2) Where a trade mark and any part thereof are, in accordance with the provisions of sub-section (1) of section 15, registered as separate trade marks in the name of the same proprietor, they shall be deemed to be, and shall be registered as, associated trade marks.

(3) All trade marks registered in accordance with the provisions of sub-section 3 of section 15 as a series in one registration shall be deemed to be, and shall be registered as, associated trade marks.

(4) On application made in the prescribed manner by the registered proprietor of two or more trade marks registered as associated trade marks, the Registrar may dissolve the association as respects any of them if he is satisfied that there would be no likelihood of deception or confusion being caused if that trade mark were used

by any other person in relation to any of the goods in respect of which it is registered, and may amend the register accordingly.

17. *Registration of trade marks subject to disclaimer.* If a trade mark

(a) contains any part

(i) which is not the subject of a separate application by the proprietor for registration as a trade mark; or

(ii) which is not separately registered by the proprietor as a trade mark; or

(b) contains any matter which is common to the trade or is otherwise of a non-distinctive character;

the tribunal, in deciding whether the trade mark shall be entered or shall remain on the register, may require, as a condition of its being on the register, that the proprietor shall either disclaim any right to the exclusive use of such part or of all or any portion of such matter, as the case may be, to the exclusive use of which the tribunal holds him not to be entitled, or make such other disclaimer as the tribunal may consider necessary for the purpose of defining the rights of the proprietor under the registration:

Provided that no disclaimer shall effect any rights of the proprietor of a trade mark except such as arise out of the registration of the trade mark in respect of which the disclaimer is made.

CHAPTER III

PROCEDURE FOR AND DURATION OF REGISTRATION

18. *Application for registration.*—(1) Any person claiming to be the proprietor of a trade mark used or proposed to be used by him, who is desirous of registering it, shall apply in writing to the Registrar in the prescribed manner for the registration of his trade mark either in Part A or in Part B of the register.

(2) An application shall not be made in respect of goods comprised in more than one prescribed class of goods.

(3) Every application under sub-section (1) shall be filed in the office of the Trade Marks Registry within whose territorial limits the principal place of business in India of the applicant or in the case of joint applicants the principal place of business in India of the applicant whose name is first mentioned in the application, as having a place of business in India is situate:

Provided that where the applicant or any of the joint applicants does not carry on business in India, the application shall be filed in the office of the Trade Marks Registry within whose territorial limits the place mentioned in the address for service in India as disclosed in the application, is situate.

(4) Subject to the provisions of this Act, the Registrar may refuse the application or may accept it absolutely or subject to such amendments, modifications, conditions or limitations, if any, as he may think fit.

(5) In the case of an application for registration of a trade mark (other than a certification trade mark) in Part A of the register, the Registrar may, if the applicant so desires, instead of refusing the application, treat it as an application for registration in Part B of the register and deal with the application accordingly.

(6) In the case of a refusal or conditional acceptance of an application, the Registrar shall record in writing the grounds for such refusal or conditional acceptance and the materials used by him in arriving at his decision.

19. *Withdrawal of acceptance.*—Where, after the acceptance of an application for registration of a trade mark but before its registration, the Registrar is satisfied—

(a) that the application has been accepted in error; or

(b) that in the circumstances of the case the trade mark should not be registered or should be registered subject to conditions or limitations or to conditions additional to or different from the conditions or limitations subject to which the application has been accepted;

the Registrar may, after hearing the applicant if he so desires, withdraw the acceptance and proceed as if the application had not been accepted.

20. *Advertisement of application.*—(1) When an application for registration of a trade mark has been accepted, whether absolutely or subject to conditions or limitations, the Registrar shall, as soon as may be after acceptance, cause the application as accepted together with the conditions or limitations, if any, subject to which it has been accepted, to be advertised in the prescribed manner:

Provided that the Registrar may cause the application to be advertised before acceptance if it relates to a trade mark to which sub-section (2) of section 9 applies or in any other case where it appears to him that it is expedient by reason of any exceptional circumstances so to do.

(2) Where—

(a) an application has been advertised before acceptance under sub-section (1); or

(b) after advertisement of an application—

(i) an error in the application has been corrected; or

(ii) the application has been permitted to be amended under section 22;

the Registrar may in his discretion cause the application to be advertised again or, in any case falling under clause (b) may, instead of causing the application to be advertised again, notify in the prescribed manner the correction or amendment made in the application.

21. *Opposition to registration.*—(1) Any person may, within three months, from the date of the advertisement or re-advertisement of an application for registration or within such further period, not exceeding one month in the aggregate, as the Registrar, on application made to him in the prescribed manner and on payment of the prescribed fee, allows, give notice in writing in the prescribed manner to the Registrar, of opposition to the registration.

(2) The Registrar shall serve a copy of the notice on the applicant for registration and, within two months from the receipt by the applicant of such copy of the notice of opposition, the applicant shall send to the Registrar in the prescribed manner a counter-statement of the grounds on which he relies for his application, and if he does not do so he shall be deemed to have abandoned his application.

(3) If the applicant sends such counter-statement the Registrar shall serve a copy thereof on the person giving notice of opposition.

(4) Any evidence upon which the opponent and the applicant may rely shall be submitted in the prescribed manner and within the prescribed time to the Registrar, and the Registrar shall give an opportunity to them to be heard if they so desire.

(5) The Registrar shall, after hearing the parties, if so required, and considering the evidence, decide whether and subject to what conditions or limitations, if any, the registration is to be permitted, and may take into account a ground of objection whether relied upon by the opponent or not.

(6) Where a person giving notice of opposition or an applicant sending a counter-statement after receipt of a copy of such notice neither resides nor carries on business in India, the Registrar may require him to give security for the costs of proceedings before him, and in default of such security being duly given, may treat the opposition or application, as the case may be, as abandoned.

22. Correction and amendment.—The Registrar may on such terms as he thinks just—

- (a) at any time, whether before or after acceptance of an application for registration under section 18, permit the correction of any error in or in connection with the application or permit an amendment of the application; or
- (b) permit correction of any error in, or an amendment of, a notice of opposition or a counter-statement under section 21.

23. Registration.—(1) Subject to the provisions of section 19, when an application for registration of a trade mark in Part A or Part B of the register has been accepted and either—

- (a) the application has not been opposed and the time for notice of opposition has expired; or
- (b) the application has been opposed and the opposition has been decided in favour of the applicant;

the Registrar shall, unless the Central Government otherwise directs, register the said trade mark in Part A or Part B of the register, as the case may be, and the trade mark when registered shall be registered as of the date of the making of the said application and that date shall, subject to the provisions of section 131, be deemed to be the date of registration.

(2) On the registration of a trade mark, the Registrar shall issue to the applicant a certificate in the prescribed form of the registration thereof, sealed with the seal of the Trade Marks Registry.

(3) Where registration of a trade mark is not completed within twelve months from the date of the application by reason of default on the part of the applicant, the Registrar may, after giving notice to the applicant in the prescribed manner, treat the application as abandoned unless it is completed within the time specified in that behalf in the notice.

(4) The Registrar may amend the register or a certificate of registration for the purpose of correcting a clerical error or an obvious mistake.

24. Jointly owned trade marks.—(1) Save as provided in sub-section (2), nothing in this Act shall

authorise the registration of two or more persons who use a trade mark independently, or propose so to use it, as joint proprietors thereof.

(2) Where the relations between two or more persons interested in a trade mark are such that no one of them is entitled as between himself and the other or others of them to use it except—

- (a) on behalf of both or all of them; or
- (b) in relation to an article with which both or all of them are connected in the course of trade;

those persons may be registered as joint proprietors of the trade mark, and this Act shall have effect in relation to any rights to the use of the trade mark vested in those persons as if those rights had been vested in a single person.

25. Duration, renewal and restoration of registration.—(1) The registration of a trade mark shall be for a period of seven years, but may be renewed from time to time in accordance with the provisions of this section.

(2) The Registrar shall, on application made by the registered proprietor of a trade mark in the prescribed manner and within the prescribed period and subject to payment of the prescribed fee, renew the registration of a trade mark for a period of seven years from the date of expiration of the original registration or of the last renewal of registration, as the case may be (which date is in this section referred to as the expiration of the last registration).

(3) At the prescribed time before the expiration of the last registration of a trade mark the Registrar shall send notice in the prescribed manner to the registered proprietor of the date of expiration and the conditions as to payment of fees and otherwise upon which a renewal of registration may be obtained, and, if at the expiration of the time prescribed in that behalf those conditions have not been duly complied with, the Registrar may remove the trade mark from the register.

(4) Where a trade mark has been removed from the register for non-payment of the prescribed fee, the Registrar may, within one year from the expiration of the last registration of the trade mark, on receipt of an application in the prescribed form, if satisfied that it is just so to do, restore the trade mark to the register and renew the registration of the trade mark either generally or subject to such conditions or limitations as he thinks fit to impose, for a period of seven years from the expiration of the last registration.

26. Effect of removal from register for failure to pay fee for renewal.—Where a trade mark has been removed from the register for failure to pay the fee for renewal, it shall nevertheless, for the purpose of any application for the registration of another trade mark during one year next after the date of the removal, be deemed to be a trade mark already on the register, unless the tribunal is satisfied either—

- (a) that there has been no *bona fide* trade use of the trade mark which has been removed during the two years immediately preceding its removal; or
- (b) that no deception or confusion would be likely to arise from the use of the trade mark which is the subject of the application for registration by reason of any pre-

vious use of the trade mark which have been removed.

CHAPTER IV

EFFECT OF REGISTRATION

27. *No action for infringement of unregistered trade mark.*—(1) No person shall be entitled to institute any proceeding to prevent, or to recover damages for, the infringement of an unregistered trade mark.

(2) Nothing in this Act shall be deemed to effect rights of action against any person for passing off goods as the goods of another person or the remedies in respect thereof.

28. *Rights conferred by registration.*—(1) Subject to the other provisions of this Act, the registration of a trade mark in Part A or Part B of the register shall, if valid, give to the registered proprietor of the trade mark the exclusive right to the use of the trade mark in relation to the goods in respect of which the trade mark is registered and to obtain relief in respect of infringement of the trade mark in the manner provided by this Act.

(2) The exclusive right to the use of a trade mark given under sub-section (1) shall be subject to any conditions and limitations to which the registration is subject.

(3) Where two or more persons are registered proprietors of trade marks which are identical with or nearly resemble each other, the exclusive right to the use of any of those trade marks shall not (except so far as their respective rights are subject to any conditions or limitations entered on the register) be deemed to have been acquired by any one of those persons as against any other of those persons merely by registration of the trade marks but each of those persons has otherwise the same rights as against other persons (not being registered users using by way of permitted use) as he would have if he were the sole registered proprietor.

29. *Infringement of trade marks.*—(1) A registered trade mark is infringed by a person who, not being the registered proprietor of the trade mark or a registered user thereof using by way of permitted use, uses in the course of trade a mark which is identical with, or deceptively similar to, the trade mark, in relation to any goods in respect of which the trade mark is registered and in such manner as to render the use of the mark likely to be taken as being use as a trade mark.

(2) In an action for infringement of a trade mark registered in Part B of the register an injunction or other relief shall not be granted to the plaintiff if the defendant establishes to the satisfaction of the court that the use of the mark of which the plaintiff complains is not likely to deceive or cause confusion or to be taken as indicating a connection in the course of trade between the goods in respect of which the trade mark is registered and some person having the right, either as registered proprietor or as registered user, to use the trade mark.

30. *Acts not constituting infringement.*—(1) Notwithstanding anything contained in this Act, the following acts do not constitute an infringement of the right to the use of a registered trade mark:—

(a) where a trade mark is registered subject to any conditions or limitations, the use of the trade mark in any manner in relation to goods to be sold or otherwise traded

in, in any place, or in relation to goods to be exported to any market, or in any other circumstances, to which, having regard to those conditions or limitations, the registration does not extend;

(b) the use by a person of a trade mark in relation to goods connected in the course of trade with the proprietor or a registered user of the trade mark if, as to those goods or a bulk of which they form part, the registered proprietor or the registered user conforming to the permitted use has applied the trade mark and has not subsequently removed or obliterated it, or has at any time expressly or impliedly consented to the use of the trade mark;

(c) the use of a trade mark by a person in relation to goods adapted to form part of, or to be accessory to, other goods in relation to which the trade mark has been used without infringement of the right given by registration under this Act or might for the time being be so used, if the use of the trade mark is reasonably necessary in order to indicate that the goods are so adapted, and neither the purpose nor the effect of the use of the trade mark is to indicate, otherwise than in accordance with the fact, a connection in the course of trade between any person and the goods;

(d) the use of a registered trade mark, being one of two or more trade marks registered under this Act which are identical or nearly resemble each other, in exercise of the right to the use of that trade mark given by registration under this Act.

(2) Where the goods bearing a registered trade mark are lawfully acquired by a person, the sale of or other dealings in those goods by that person or by a person claiming under or through him is not an infringement of the trade mark by reason only of the trade mark having been assigned by the registered proprietor to some other person after the acquisition of those goods.

31. *Registration to be prima facie evidence of validity.*—(1) In all legal proceedings relating to a trade mark registered under this Act (including applications under section 56), the original registration of the trade mark and of all subsequent assignments and transmissions of the trade mark shall be *prima facie* evidence of the validity thereof.

(2) In all legal proceedings as aforesaid a trade mark registered in Part A of the register shall not be held to be invalid on the ground that it was not a registrable trade mark under section 9 except upon evidence of distinctiveness and that such evidence was not submitted to the Registrar before registration, if it is proved that the trade mark had been so used by the registered proprietor or his predecessor in title as to have become distinctive at the date of registration.

32. *Registration to be conclusive as to validity after seven years.*—Subject to the provisions of section 35 and section 46, in all legal proceedings relating to a trade mark registered in Part A of the register (including applications under section 56), the original registration of the trade mark shall, after the expiration of seven years from the date of such registration, be taken to be valid in all respects unless it is proved—

(a) that the original registration was obtained by

fraud; or

(b) that the trade mark was registered in contravention of the provisions of section 11 or offends against the provisions of that section on the date of commencement of the proceedings; or

(c) that the trade mark was not, at the commencement of the proceedings, distinctive of the goods of the registered proprietor.

33. *Saving for vested rights.*—Nothing in this Act shall entitle the proprietor or a registered user of a registered trade mark to interfere with or restrain the use by any person of a trade mark identical with or nearly resembling it in relation to goods in relation to which that person or a predecessor in title of his has continuously used that trade mark from a date prior—

(a) to the use of the first-mentioned trade mark in relation to those goods by the proprietor or a predecessor in title of his; or

(b) to the date of registration of the first-mentioned trade mark in respect of those goods in the name of the proprietor or a predecessor in title of his;

whichever is the earlier, and the Registrar shall not refuse (on such use being proved) to register the second-mentioned trade mark by reason only of the registration of the first-mentioned trade mark.

34. *Saving for use of name, address or description of goods.*—Nothing in this Act shall entitle the proprietor or a registered user of a registered trade mark to interfere with any *bona fide* use by a person of his own name or that of his place of business, or of the name, or of the name of the place of business of any of his predecessors in business, or the use by any person of any *bona fide* description of the character or quality of his goods.

35. *Saving for words used as name or description of an article or substance.*—(1) The registration of a trade mark shall not be deemed to have become invalid by reason only of any use after the date of the registration of any word or words which the trade mark contains or of which it consists as the name or description of an article or substance:

• Provided that, if it is proved either—

(a) that there is a well-known and established use of the said word as the name or description of the article or substance by a person or persons carrying on a trade therein, not being use in relation to goods connected in the course of trade with the proprietor or a registered user of the trade mark or (in the case of a certification trade mark) goods certified by the proprietor; or

(b) that the article or substance was formerly manufactured under a patent, that a period of two years or more after the cesser of the patent has elapsed, and that the said word is the only practicable name or description of the article or substance; the provisions of sub-section (2) shall apply.

(2) Where the facts mentioned in clause (a) or clause (b) of the proviso to sub-section (1) are proved with respect to any words, then—

(a) for the purposes of any proceedings under section 56—

(i) if the trade mark consists solely of such words, the registration of the trade mark, so far as regards registration in respect of the article or substance in question or of any goods of the same description, shall be deemed to be an entry

wrongly remaining on the register;

(ii) if the trade mark contains such words and other matter, the tribunal in deciding whether the trade mark shall remain on the register, so far as regards registration in respect of the article or substance in question and of any goods of the same description, may, in case of a decision in favour of its remaining on the register, require as a condition thereof that the proprietor shall disclaim any exclusive right to the use in relation to that article or substance and any goods of the same description, of such words:

Provided that no disclaimer shall affect any rights of the proprietor of a trade mark except such as arise out of the registration of the trade mark in respect of which the disclaimer is made;

(b) for the purposes of any other legal proceeding relating to the trade mark,—

(i) if the trade mark consists solely of such words, all rights of the proprietor under this Act or any other law to the use of the trade mark in relation to the article or substance in question or to any goods of the same description; or

(ii) if the trade mark contains such words and other matter, all such rights of the proprietor to the use of such words, in such relation as aforesaid;

shall be deemed to have ceased on the date at which the use mentioned in clause (a) of the proviso to sub-section (1) first became well-known and established, or at the expiration of the period of two years mentioned in clause (b) of the said proviso.

CHAPTER V

ASSIGNMENT AND TRANSMISSION

36. *Power of registered proprietor to assign and give receipts.*—The person for the time being entered in the register as proprietor of a trade mark shall, subject to the provisions of this Act and to any rights appearing from the register to be vested in any other person, have power to assign the trade mark, and to give effectual receipts for any consideration for such assignment.

37. *Assignability and transmissibility of registered trade marks.*—Notwithstanding anything in any other law to the contrary, a registered trade mark shall, subject to the provisions of this Chapter, be assignable and transmissible, whether with or without the goodwill of the business concerned and in respect either of all the goods in respect of which the trade mark is registered or of some only of those goods.

38. *Assignability and transmissibility of unregistered trade marks.*—(1) An unregistered trade mark shall not be assignable (or transmissible) except along with the goodwill of the business concerned.

(2) Notwithstanding anything contained in sub-section (1), an unregistered trade mark may be assigned or transmitted otherwise than along with the goodwill of the business concerned if—

(a) at the time of assignment or transmission of the unregistered trade mark, it is used in the same business as a registered trade mark; and

(b) the registered trade mark is assigned or transmitted at the same time and to the same person as the unregistered trade mark; and

(c) the unregistered trade mark relates to goods in respect of which the registered trade mark is assigned

or transmitted.

39. Restrictions on assignment or transmission where multiple exclusive rights would be created.—(1) Notwithstanding anything in section 37 and section 38, a trade mark shall not be assignable or transmissible in a case in which as a result of the assignment or transmission there would in the circumstances subsist, whether under this Act or any other law, exclusive rights in more than one of the persons concerned to the use, in relation to the same goods or description of goods, of trade marks nearly resembling each other or of identical trade marks if, having regard to the similarity of the goods and of the trade marks, the use of the trade marks in exercise of those rights would be likely to deceive or cause confusion:

Provided that an assignment or transmission shall not be deemed to be invalid under this sub-section if the exclusive rights subsisting as a result thereof in the persons concerned respectively are, having regard to limitations imposed thereon, such as not to be exercisable by two or more of those persons in relation to goods to be sold, or otherwise traded in, within India otherwise than for export therefrom, or in relation to goods to be exported to the same market outside India.

(2) The proprietor of a registered trade mark who proposes to assign it may submit to the Registrar in the prescribed manner a statement of case setting out the circumstances and the Registrar may issue to him a certificate stating whether, having regard to the similarity of the goods and of the trade marks referred to in the case, the proposed assignment would or would not be invalid under sub-section (1), and a certificate so issued shall, subject to appeal and unless it is shown that the certificate was obtained by fraud or misrepresentation, be conclusive as to the validity or invalidity under sub-section (1) of the assignment in so far as such validity or invalidity depends upon the facts set out in the case, but, as regards a certificate in favour of validity, only if application for the registration under section 44 of the title of the person becoming entitled is made within six months from the date on which the certificate is issued.

40. Restrictions on assignment or transmission when exclusive rights would be created in different parts of India.—Notwithstanding anything in section 37 and section 38, a trade mark shall not be assignable or transmissible in a case in which as a result of the assignment or transmission there would in the circumstances subsist, whether under this Act or any other law, an exclusive right in one of the persons concerned to the use of the trade mark limited to use in relation to goods to be sold, or otherwise traded in, in any place in India and an exclusive right in another of these persons to the use of a trade mark nearly resembling the first-mentioned trade mark or of an identical trade mark in relation to the same goods or description of goods limited to use in relation to goods to be sold, or otherwise traded in, in any other place in India:

Provided that in any such case, on application in the prescribed manner by the proprietor of a trade mark who proposes to assign it, or by a person who claims that a registered trade mark has been transmitted to him or to a predecessor in title of his since the commencement of this Act, the Registrar, if he is satisfied that in all the circumstances the use of the trade mark in exercise of the said rights would not be contrary to the public interest, may approve the assignment or transmission,

and an assignment or transmission so approved shall not, unless it is shown that the approval was obtained by fraud or misrepresentation, be deemed to be invalid under this section or section 39 in application for the registration under section 44 of the title of the person, becoming entitled is made within six months from the date on which the approval is given or, in the case of a transmission, was made before that date.

41. Conditions for assignment otherwise than in connection with the goodwill of a business.—Where an assignment of a trade mark, whether registered or unregistered, is made otherwise than in connection with the goodwill of the business in which the mark has been or is used, the assignment shall not take effect unless the assignee, not later than the expiration of six months from the date on which the assignment is made or within such extended period, if any, not exceeding three months in the aggregate, as the Registrar may allow, applies to the Registrar for directions with respect to the advertisement of the assignment, and advertises it in such form and manner and within such period as the Registrar may direct.

Explanation.—For the purposes of this section an assignment of a trade mark of the following description shall not be deemed to be an assignment made otherwise than in connection with the goodwill of the business in which the mark is used, namely:—

(a) an assignment of a trade mark in respect only of some of the goods for which the trade mark is registered accompanied by the transfer of the goodwill of the business concerned in those goods only; or

(b) an assignment of a trade mark which is used in relation to goods exported from India if the assignment is accompanied by the transfer of the goodwill of the export business only.

42. Assignability and transmissibility of certification trade marks.—A certification trade mark shall not be assignable or transmissible otherwise than with the consent of the Central Government, for which application shall be made in writing in the prescribed manner through the Registrar.

43. Assignability and transmissibility of associated trade marks.—Associated trade marks shall be assignable and transmissible only as a whole and not separately, but, subject to the provisions of this Act, they shall, for all other purposes, be deemed to have been registered as separate trade marks.

44. Registration of assignments and transmissions.—(1) Where a person becomes entitled by assignment or transmission to a registered trade mark, he shall apply in the prescribed manner to the Registrar to register his title, and the Registrar shall, on receipt of the application and on proof of title to his satisfaction, register him as the proprietor of the trade mark in respect of the goods in respect of which the assignment or transmission has effect, and shall cause particulars of the assignment or transmission to be entered on the register:

Provided that where the validity of an assignment or transmission is in dispute between the parties, the Registrar may refuse to register the assignment or transmission until the rights of the parties have been determined by a competent court.

(2) Except for the purpose of an application before

the Registrar under sub-section (1) or an appeal from an order thereon, or an application under section 56 or an appeal from an order thereon, a document or instrument in respect of which no entry has been made in the register in accordance with sub-section (1), shall not be admitted in evidence by the Registrar or any court in proof of title to the trade mark by assignment or transmission unless the Registrar or the court, as the case may be, otherwise directs.

CHAPTER VI

USE OF TRADE MARKS AND REGISTERED USERS

45. Proposed use of trade mark by company to be formed.—(1) No application for the registration of a trade mark in respect of any goods shall be refused, nor shall permission for such registration be withheld, on the ground only that it appears that the applicant does not use or propose to use the trade mark, if the Registrar is satisfied that a company is about to be formed and registered under the Companies Act, 1956 (1 of 1956), and that the applicant intends to assign the trade mark to that company with a view to the use thereof in relation to those goods by the company.

(2) The tribunal may, in a case to which sub-section (1) applies, require the applicant to give security for the costs of any proceedings relative to any opposition or appeal, and in default of such security being duly given may treat the application as abandoned.

(3) Where in a case to which sub-section (1) applies, a trade mark in respect of any goods is registered in the name of an applicant, who relies on intention to assign the trade mark to a company, then, unless within such period as may be prescribed, or within such further period not exceeding six months as the Registrar may, on application being made to him in the prescribed manner, allow, the company has been registered as the proprietor of the trade mark in respect of those goods, the registration shall cease to have effect in respect thereof at the expiration of that period, and the Registrar shall amend the register accordingly.

46. Removal from register and imposition of limitations on ground of non-use.—(1) Subject to the provisions of section 47, a registered trade mark may be taken off the register in respect of any of the goods in respect of which it is registered on application made in the prescribed manner to a High Court or to the Registrar by any person aggrieved on the ground either—

(a) that the trade mark was registered without any *bona fide* intention on the part of the applicant for registration that it should be used in relation to those goods by him or, in a case to which the provisions of section 45 apply, by the company concerned, and that there has, in fact, been no *bona fide* use of the trade mark in relation to those goods by any proprietor thereof for the time being up to a date one month before the date of the application; or

(b) that up to a date one month before the date of the application, a continuous period of five years or longer had elapsed during which the trade mark was registered and during which there was no *bona fide* use thereof in relation to those goods by any

proprietor thereof for the time being;

Provided that, except where the applicant has been permitted under sub-section (3) of section 12 to register an identical or nearly resembling trade mark in respect of the goods in question or where the tribunal is of opinion that he might properly be permitted so to register such a trade mark, the tribunal may refuse an application under clause (a) or clause (b) in relation to any goods, if it is shown that there has been, before the relevant date or during the relevant period, as the case may be, *bona fide* use of the trade mark by any proprietor thereof for the time being in relation to goods of the same description, being goods in respect of which the trade mark is registered.

(2) Where in relation to any goods in respect of which a trade mark is registered—

(a) the circumstances referred to in clause (b) of sub-section (1) are shown to exist so far as regards non-use of the trade mark in relation to goods to be sold, or otherwise traded in, in a particular place in India (otherwise than for export from India), or in relation to goods to be exported to a particular market outside India; and

(b) a person has been permitted under sub-section (3) of section 12 to register an identical or nearly resembling trade mark in respect of those goods under a registration extending to use in relation to goods to be so sold, or otherwise traded in, or in relation to goods to be so exported, or the tribunal is of opinion that he might properly be permitted so to register such a trade mark;

on application by that person in the prescribed manner to a High Court or to the Registrar, the tribunal may impose on the registration of the first-mentioned trade mark such limitations as it thinks proper for securing that that registration shall cease to extend to such use.

(3) An applicant shall not be entitled to rely for the purpose of clause (b) of sub-section (1) or for the purposes of sub-section (2) on any non-use of a trade mark which is shown to have been due to special circumstances in the trade and not to any intention to abandon or not to use the trade mark in relation to the goods to which the application relates.

47. Defensive registration or well-known trade marks.—

(1) Where a trade mark consisting of any invented word has become so well-known as respects any goods in relation to which it is registered and has been used, that the use thereof in relation to other goods would be likely to be taken as indicating a connection in the course of trade between those goods and a person entitled to use the trade mark in relation to the first-mentioned goods, then, notwithstanding that the proprietor registered in respect of the first mentioned goods does not use or propose to use the trade mark in relation to those other goods and notwithstanding anything in section 46, the trade mark may, on application in the prescribed manner by such proprietor, be registered in his name in respect of those other goods as a defensive trade mark, and while so registered, shall not be liable to be taken off the register in respect of those goods under the said section.

(2) The registered proprietor of a trade mark may apply for the registration thereof in respect of any goods as a defensive trade mark notwithstanding that it is already registered in his name in respect of those goods otherwise than as a defensive trade mark, or may apply for the registration thereof in respect of any goods otherwise than as a defensive trade mark

notwithstanding that it is already registered in his name in respect of those goods as a defensive trade mark, in lieu in each case of the existing registration.

(3) A trade mark registered as a defensive trade mark and that trade mark as otherwise registered in the name of the same proprietor shall, notwithstanding that the respective registrations are in respect of different goods be deemed to be and shall be registered as, associated trade marks.

(4) On application made in the prescribed manner to a High Court or to the Registrar by any person aggrieved, the registration of a trade mark as a defensive trade mark may be cancelled on the ground that the requirements of sub-section (1) are no longer satisfied in respect of any goods in relation to which the trade mark is registered in the name of the same proprietor otherwise than as a defensive trade mark or may be cancelled as respects any goods in relation to which it is registered as defensive trade mark on the ground that there is no longer any likelihood that the use of the trade mark in relation to those goods would be taken as giving the indication mentioned in sub-section (1).

(5) The Registrar may at any time cancel the registration as a defensive trade mark of a trade mark of which there is no longer any registration in the name of the same proprietor otherwise than as a defensive trade mark.

(6) Except as otherwise expressly provided in this section, the provisions of this Act shall apply in respect of the registration of trade marks as defensive trade marks and of trade marks so registered as they apply in other cases.

48. Registered users.—(1) Subject to the provisions of section 49, a person other than the registered proprietor of a trade mark may be registered as the registered user thereof in respect of any or all of the goods in respect of which the trade mark is registered otherwise than as a defensive trade mark; but the Central Government may by rules made in this behalf, provide that no application for registration as such shall be entertained unless the agreement between the parties complies with the conditions laid down in the rules for preventing trafficking in trade marks.

(2) The permitted use of a trade mark shall be deemed to be use by the proprietor thereof, and shall be deemed not to be use by a person other than the proprietor, for the purposes of section 46 or for any other purpose for which such use is material under this Act or any other law.

49. Application for registration as registered user.—

(1) Where it is proposed that a person should be registered as a registered user of a trade mark, the registered proprietor and the proposed registered user shall jointly apply in writing to the Registrar in the prescribed manner, and every such application shall be accompanied by—

(i) the agreement in writing or a duly authenticated copy thereof, entered into between the registered proprietor and the proposed registered user with respect to the permitted use of the trade mark; and

(ii) an affidavit made by the registered proprietor or by some person authorised to the satisfaction of the Registrar to act on his behalf—

(a) giving particulars of the relationship, existing or proposed, between the proprietor and the proposed registered user, including particulars showing the degree of control by the proprietor over the permitted use which their relationship will confer and whether it is a term of their relationship that

the proposed registered user shall be the sole registered user or that there shall be any other restriction as to persons for whose registration as registered users application may be made;

(b) stating the goods in respect of which registration is proposed;

(c) stating the conditions or restrictions, if any, proposed with respect to the characteristics of the goods, to the mode or place of permitted use, or to any other matter;

(d) stating whether the permitted use is to be for a period or without limit of period, and, if for a period, the duration thereof; and

(iii) such further documents or other evidence as may be required by the Registrar or as may be prescribed.

(2) When the requirements of sub-section (1) have been complied with to his satisfaction, the Registrar shall forward the application together with his report and all the relevant documents to the Central Government.

(3) On receipt of an application under sub-section (2), the Central Government, having regard to all the circumstances of the case and to the interests of the general public, and the development of any industry, trade or commerce in India, may direct the Registrar—

(a) to refuse the application; or

(b) to accept the application either absolutely or subject to any conditions, restrictions or limitations which the Central Government may think proper to impose:

Provided that no direction for refusing the application or for its acceptance conditionally shall be made unless the applicant has been given an opportunity of being heard.

(4) The Registrar shall dispose of the application in accordance with the directions issued by the Central Government under sub-section (3).

(5) The Central Government and the Registrar shall, if so requested by the applicant, take steps for securing that information given for the purposes of an application under this section (other than matters entered in the register) is not disclosed to rivals in trade.

(6) The Registrar shall issue notice in the prescribed manner of the registration of a person as registered user, to other registered users of the trade mark, if any.

50. Existing registrations of registered users not to have effect after three years.—Notwithstanding anything contained in any law for the time being in force or in any contract or agreement, every registration made before the commencement of this Act of a registered user shall cease to have effect after the expiration of three years from such commencement.

51. Power of registered user to take proceedings against infringement.—(1) Subject to any agreement subsisting between the parties, a registered user of a trade mark shall be entitled to call upon the proprietor thereof to take proceedings to prevent infringement thereof, and if the proprietor refuses or neglects to do so within three months after being so called upon, the registered user may institute proceedings for infringement in his own name as if he were the proprietor, making the proprietor a defendant.

(2) Notwithstanding anything contained in any other law, a proprietor so added as defendant shall not

be liable for any costs unless he enters an appearance and takes part in the proceedings.

52. Power of Registrar to vary or cancel registration as registered user.—(1) Without prejudice to the provisions of section 56, the registration of a person as a registered user—

(a) may be varied by the Registrar as regards the goods in respect of which or any conditions or restrictions subject to which, it has effect, on the application in writing in the prescribed manner of the registered proprietor of the trade mark;

(b) may be cancelled by the Registrar on the application in writing in the prescribed manner of the registered proprietor or of the registered user or of any other registered user of the trade mark;

(c) may be cancelled by the Registrar on the application in writing in the prescribed manner of any person on any of the following grounds, namely:—

- (i) that the registered user has used the trade mark otherwise than by way of the permitted use, or in such a way as to cause or to be likely to cause, deception or confusion;
- (ii) that the proprietor or the registered user misrepresented, or failed to disclose, some fact material to the application for registration, which if accurately represented or disclosed would have justified the refusal of the application for registration of the registered user;
- (iii) that the circumstances have changed since the date of registration in such a way that at the date of such application for cancellation they would have justified the refusal of an application for registration of the registered user;
- (iv) that the registration ought not to have been effected having regard to rights vested in the applicant by virtue of a contract in the performance of which he is interested;

(d) may be cancelled by the Registrar of his own motion or on the application in writing in the prescribed manner of any person, on the ground that any stipulation in the agreement between the registered proprietor and the registered user regarding the quality of the goods in relation to which the trade mark is to be used is either not being enforced or is not being complied with;

(e) may be cancelled by the Registrar in respect of any goods in relation to which the trade mark is no longer registered.

(2) The Registrar shall, before varying any registration under clause (a) of sub-section (1) or cancelling any registration on any of the grounds mentioned in sub-clause (ii) or sub-clause (iii) or sub-clause (iv) of clause (c) of that sub-section, forward the application made in that behalf for the consideration of the Central Government, and the Central Government may, after making such inquiry as it thinks fit, issue such directions to the Registrar as it thinks fit, and the Registrar shall dispose of the application in accordance with such directions.

(3) The Registrar shall issue notice in the prescribed manner of every application under this section to the registered proprietor and each registered user (not being

the applicant) of the trade mark.

53. Registered user not to have right of assignment or transmission.—Nothing in this Act shall confer on a registered user of a trade mark any assignable or transmissible right to the use thereof.

Explanation 1.—The right of a registered user of a trade mark shall not be deemed to have been assigned or transmitted within the meaning of this section in the following cases, namely:—

(a) where the registered user being an individual enters into a partnership with any other person for carrying on the business concerned; but if any such case the firm may use the trade mark, if otherwise in force, only for so long as the registered user is a member of the firm;

(b) where the registered user being a firm subsequently undergoes a change in its constitution; but in any such case the reconstituted firm may use the trade mark, if otherwise in force, only for so long as any partner of the original firm at the time of its registration as registered user, continues to be a partner of the reconstituted firm.

Explanation 2.—For the purposes of *Explanation 1*, “firm” has the same meaning as in the Indian Partnership Act, 1932 (9 of 1932).

54. Use of one of associated or substantially identical trade marks equivalent to use of another.—(1) Where under the provisions of this Act use of a registered trade mark is required to be proved for any purpose, the tribunal may, if and so far as it shall think right, accept use of a registered associated trade mark, or of the trade mark with additions or alterations not substantially affecting its identity, as an equivalent for the use required to be proved.

(2) The use of the whole of a registered trade mark shall for the purposes of this Act be deemed to be also a use of any trade mark being a part thereof and registered in accordance with sub-section (1) of section 15 in the name of the same proprietor.

55. Use of trade mark for export trade and use when form of trade connection changes.—(1) The application in India of trade mark to goods to be exported from India and any other Act done in India in relation to goods to be so exported which, if done in relation to goods to be sold or otherwise traded in within India would constitute use of a trade mark therein, shall be deemed to constitute use of the trade mark in relation to those goods for any purpose for which such use is material under this Act or any other law.

(2) The use of a registered trade mark in relation to goods between which and the person using the mark any form of connection in the course of trade subsists shall not be deemed to be likely to cause deception or confusion on the ground only that the mark has been or is used in relation to goods between which and the said person or a predecessor in title of that person a different form of connection in the course of trade subsisted or subsists.

CHAPTER VII

RECTIFICATION AND CORRECTION OF THE REGISTER

56. Power to cancel or vary registration and to rectify the register.—(1) On application made in the prescribed manner to a High Court or to the Registrar by any

person aggrieved, the tribunal may make such order as it may think fit for cancelling or varying the registration of a trade mark on the ground of any contravention, or failure to observe a condition entered on the register in relation thereto.

(2) Any person aggrieved by the absence or omission from the register of any entry made in the register without sufficient cause, or by any entry wrongly remaining on the register, or by any error or defect in any entry in the register, may apply in the prescribed manner to a High Court or to the Registrar, and the tribunal may make such order for making, expunging or varying the entry as it may think fit.

(3) The tribunal may in any proceeding under this section decide any question that may be necessary or expedient to decide in connection with the rectification of the register.

(4) The tribunal, of its own motion, may, after giving notice in the prescribed manner to the parties concerned and after giving them an opportunity of being heard, make any order referred to in sub-section (1) or sub-section (2).

(5) Any order of the High Court rectifying the register shall direct that notice of the rectification shall be served upon the Registrar in the prescribed manner who shall upon receipt of such notice rectify the register accordingly.

(6) The power to rectify the register conferred by this section shall include the power to remove a trade mark registered in Part A of the register to Part B of the register.

57. Correction of register.—(1) The Registrar may, on application made in the prescribed manner by the registered proprietor,—

(a) correct any error in the name, address or description of the registered proprietor of a trade mark, or any other entry relating to the trade mark;

(b) enter any change in the name, address or description of the person who is registered as proprietor of a trade mark;

(c) cancel the entry of a trade mark on the register;

(d) strike out any goods or classes of goods from those in respect of which a trade mark is registered;

(e) enter a disclaimer or memorandum relating to a trade mark which does not in any way extend the rights given by the existing registration of the trade mark;

and may make any consequential amendment or alteration in the certificate of registration, and for that purpose, may require the certificate of registration to be produced to him.

(2) The registrar may, on application made in the prescribed manner by a registered user of a trade mark, and after notice to the registered proprietor, correct any error, or enter any change, in the name, address or description of the registered user.

58. Alteration of registered trade marks.—(1) The registered proprietor of a trade mark may apply in the prescribed manner to the Registrar for leave to add to or alter the trade mark in any manner not substantially affecting the identity thereof, and the Registrar may refuse leave or may grant it on such terms and subject to such limitations as he may think fit.

(2) The Registrar may cause an application under this section to be advertised in the prescribed manner

in any case where it appears to him that it is expedient so to do, and where he does so, if within the prescribed time from the date of the advertisement any person gives notice to the Registrar, in the prescribed manner of opposition to the application, the Registrar shall, after hearing the parties if so required, decide the matter.

(3) Where leave is granted under this section, the trade mark as altered shall be advertised in the prescribed manner, unless the application has already been advertised under sub-section (2).

59. Adaptation of entries in register to amended or substituted classification of goods.—(1) The Registrar shall not, in exercise of any power conferred on him by rules made with reference to clause (a) of sub-section (2) of section 133, make any amendment of the register which would have the effect of adding any goods or classes of goods to those in respect of which a trade mark is registered (whether in one or more classes) immediately before the amendment is to be made or of antedating the registration of a trade mark in respect of any goods:

Provided that this sub-section shall not apply when the Registrar is satisfied that compliance therewith would involve undue complexity and that the addition or antedating, as the case may be, would not affect any substantial quantity of goods and would not substantially prejudice the rights of any person.

(2) A proposal so to amend the register shall be notified to the registered proprietor of the trade mark affected and advertised in the prescribed manner and may be opposed before the Registrar by any person aggrieved on the ground that the proposed amendment contravenes the provisions of sub-section (1).

CHAPTER VIII

CERTIFICATION TRADE MARKS

60. Certain provisions of this Act not applicable to certification trade marks.—The following provisions of this Act shall not apply to certification trade marks, that is to say,—

(a) section 9;

(b) sections 18, 20 and 21 except as expressly applied by this Chapter;

(c) sections 28, 29, 30, 39, 40, 41, 45, 46, 47, 48, 49, 51, 52, 53, and sub-section (2) of section 55;

(d) Chapter X, except section 81;

(e) any provision the operation of which is limited by the terms thereof to registration in Part B of the register.

61. Registration of certification trade marks.—(1) A certification trade mark shall be registrable only in Part A of the register.

(2) A mark shall not be registrable as a certification trade mark in the name of a person who carries on a trade in goods of the kind certified.

(3) In determining whether a certification trade mark is adapted to distinguish in accordance with the provisions of clause (c) of sub-section (1) of section 2, the tribunal may have regard to the extent to which—

(a) the mark is inherently so adapted to distinguish in relation to the goods in question; and

(b) by reason of the use of the mark or of any other circumstances, in mark is in fact so adapted to distinguish in relation to the goods in question.

62. Application for registration of certification trade marks.—(1) An application for the registration of a mark as a certification trade mark shall be made to the Registrar in writing in the prescribed manner by the person proposed to be registered as the proprietor thereof, and accompanied by a draft of the regulation to be deposited under section 65.

(2) Subject to the provisions of section 61, the provisions of sub-sections (1), (2), (3), (4) and (6) of section 18 and of sections 19 and 22 shall apply in relation to an application under this section as they apply in relation to an application under section 18, subject to the modification that references therein to acceptance of an application shall be construed as references to authorisation to proceed with an application.

(3) In dealing under the said provisions with application under this section, the tribunal shall have regard to the like considerations, so far as relevant, as if the application were an application under section 18 and to any other considerations (not being matters within the competence of the Central Government under section 63) relevant to applications under this section, including the desirability of securing that a certification trade mark shall comprise some indication that it is a certification trade mark.

63. Consideration of applications for registration by Central Government.—(1) When authorisation to proceed with an application under section 62 has been given, the Registrar shall forward the application to the Central Government.

(2) The Central Government shall consider the application so forwarded with regard to the following matters, namely:—

(a) whether the applicant is competent to certify the goods in respect of which the mark is to be registered;

(b) whether the draft of the regulations to be deposited under section 65 is satisfactory;

(c) whether in all the circumstances the registration applied for would be to the public advantage; and may either—

(i) direct that the application shall not be accepted; or

(ii) direct the Registrar to accept the application and approve the said draft of the regulations either without modification and unconditionally or subject to any conditions or limitations, or to any amendments or modification of the application or of the regulations, which it thinks requisite having regard to any of the said matters.

(3) Except in the case of a direction for acceptance and approval without modification and unconditionally, the Central Government shall not decide any matter under sub-section (2) without giving to the applicant an opportunity of being heard.

(4) Notwithstanding anything contained in this section, the Central Government may, at the request of the applicant made through the Registrar, consider the application with regard to any of the matters referred to in sub-section (2) before authorisation to proceed with the application is given, but the Central Government shall be at liberty to reconsider any matter on

which it has given a decision under this sub-section if any amendment or modification is thereafter made in the application or in the draft of the regulations.

64. Opposition to registration of certification trade marks.—(1) When an application has been accepted, the Registrar shall, as soon as may be thereafter, cause the application as accepted to be advertised in the prescribed manner, and the provisions of section 21 shall apply in relation to the registration of the mark as they apply in relation to an application under section 18.

(2) In deciding any matter relating to opposition proceedings under the provisions aforesaid the tribunal shall have regard only to the considerations referred to in sub-section (3) of section 62, and a decision under the said provisions in favour of the applicant shall be conditional on the determination in his favour by the Central Government under sub-section (3) of this section of any opposition relating to any of the matters referred to in section 63.

(3) When notice of opposition is given relating to any of the matters referred to in section 63, the Central Government shall, after hearing the parties, if so required by them, and considering any evidence and having regard to the matters aforesaid, direct the Registrar—

(a) to refuse registration; or

(b) to register the mark either absolutely or subject to such conditions or limitations, or amendments or modifications of the application or of the regulations to be deposited under section 65, as the Central Government may think proper to impose or make; and the Registrar shall dispose of the matter in accordance with the directions issued by the Central Government under this sub-section.

65. Deposit of regulations governing the use of a certification trade mark.—(1) There shall be deposited at the Trade Mark Registry in respect of every mark registered as a certification trade mark regulations approved by the Central Government for governing the use thereof, which shall include provisions as to the cases in which the proprietor is to certify goods and to authorise the use of the certification trade mark, and may contain any other provisions which the Central Government may, by general or special order, require or permit to be inserted therein (including provisions conferring a right of appeal to the Registrar against any refusal of the proprietor to certify goods or to authorise the use of the certification trade mark in accordance with the regulations); and regulations so deposited shall be open to inspection in like manner as the register.

(2) The regulations so deposited may on the application of the registered proprietor be altered by the Registrar with the consent of the Central Government.

(3) The Central Government may cause such application to be advertised in any case where it appears to it expedient so to do, where it does so, if within the time specified in the advertisement any person gives notice of opposition to the application, the Central Government shall not decide the matter without giving the parties an opportunity of being heard.

66. Rights conferred by registration of certification trade marks.—(1) Subject to the provisions of sections 33, 34 and 68 the registration of a person as proprietor of a certification trade mark in respect of any goods shall, if valid, give to that person the exclusive right to the use of the mark in relation to those goods.

(2) The exclusive right to the use of a certification trade mark given under sub-section (1) shall be subject to any conditions and limitations to which the registration is subject.

67. Infringement of certification trade marks.—The right conferred by section 66 is infringed by any person who, not being the registered proprietor of the certification trade mark or a person authorised by him in that behalf under the regulations deposited under section 65, using it in accordance therewith, uses in the course of trade, a mark which is identical with, or deceptively similar to, the certification trade mark in relation to any goods in respect of which it is registered, and in such manner as to render the use of the mark likely to be taken as being use as a trade mark.

68. Acts not constituting infringement of certification trade marks.—(1) Notwithstanding anything contained in this Act, the following acts do not constitute an infringement of the right to the use of a registered certification trade mark:

(a) where a certification trade mark is registered subject to any conditions or limitations entered on the register, the use of any such mark in any mode, in relation to goods to be sold or otherwise traded in any place, or in relation to goods to be exported to any market or in any other circumstances, to which having regard to any such limitations, the registration does not extend;

(b) the use of a certification trade mark in relation to goods certified by the proprietor of the mark if, as to those goods or a bulk of which they form part, the proprietor or another in accordance with his authorisation under the relevant regulations has applied the mark and has not subsequently removed or obliterated it, or the proprietor has at any time expressly or impliedly consented to the use of the mark;

(c) the use of a certification trade mark in relation to goods adapted to form part of, or to be accessory to, other goods in relation to which the mark has been used without infringement of the right given as aforesaid or might for the time being so used, if the use of the mark is reasonably necessary in order to indicate that the goods are so adapted and neither the purpose nor the effect of the use of the mark is to indicate otherwise than in accordance with the fact that the goods are certified by the proprietor.

(2) Clause (b) sub-section (1) shall not apply to the case of use consisting of the application of a certification trade mark to goods, notwithstanding that they are such goods as are mentioned in that clause if such application is contrary to the regulations referred to in that clause.

(3) Where a certification trade mark is one of two or more trade marks registered under this Act, which are identical or nearly resemble each other, the use of any of those trade marks in exercise of the right to the use of that trade mark given by registration, shall not be deemed to be an infringement of the right so given to the use of any other of those trade marks.

69. Cancellation or varying of registration.—The Central Government may, on the application in the prescribed manner of any person aggrieved or on the recommendation of the Registrar, and after giving the proprietor an opportunity of opposing the application or recommendation, make such order as it thinks fit for

expunging or varying any entry in the register relating to a certification trade mark, or for varying the deposited regulations, on any of the following grounds, namely:—

(a) that the proprietor is no longer competent, in the case of any of the goods in respect of which the mark is registered, to certify those goods;

(b) that the proprietor has failed to observe any provision of the deposited regulations to be observed on his part;

(c) that it is no longer to the public advantage that the mark should remain registered;

(d) that it is requisite for the public advantage that, if the mark remains registered, the regulations should be varied;

and neither a High Court nor the Registrar shall have any jurisdiction to make an order under section 56 on any of those grounds.

70. Registrar to give effect to orders of Central Government.—The Registrar shall rectify the register and the deposited regulations in such manner as may be requisite for giving effect to an order made by the Central Government under section 69.

CHAPTER IX

SPECIAL PROVISIONS FOR TEXTILE GOODS

71. Textile goods.—The Central Government may prescribe classes of goods (in this Chapter referred to as textile goods) to the trade marks used in relation to which the provisions of this Chapter shall apply; and subject to the said provisions, the other provisions of this Act shall apply to such trade marks as they apply to trade marks used in relation to other classes of goods.

72. Restriction on registration of textile goods.—(1) In respect of textile goods being piece goods—

(a) no mark consisting of a line heading alone shall be registrable as a trade mark;

(b) a line heading shall not be deemed to be adapted to distinguish;

(c) the registration of a trade mark shall not give any exclusive right to the use of a line heading.

(2) In respect of any textile goods, the registration of letters or numerals, or any combination thereof, shall be subject to such conditions and restrictions as may be prescribed.

73. Refused Textile Marks List.—(1) No addition shall, after the commencement of this Act, be made to the Refused Textile Marks List maintained under the Trade Marks Act, 1940 (5 of 1940).

(2) A mark already entered on the Refused Textile Marks List may, however, be continued to be so entered:

Provided that an application therefor is made in the prescribed manner and with the prescribed fee within one year after the commencement of this Act, in which case it will be retained in the List for a period of seven years from the date of the application.

74. Stamping of piece goods, cotton yarn and thread.—(1) Piece goods, such as are ordinarily sold by length or by the piece, which have been manufactured, bleached, dyed, printed or finished in premises which are a factory, as defined in the Factories Act, 1948 (63 of 1948),

shall not be removed for sale from the last of such premises in which they underwent any of the said processes without having conspicuously stamped in international form of Indian numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, or in standard metres and a fraction of such a metre, according to the real length of the piece, and except when the goods are sold from the factory for export from India, without being conspicuously marked on each piece with the name of the manufacturer or of the occupier of the premises in which the piece was finally processed or of the wholesale purchaser in India of the piece.

(2) Cotton yarn such as is ordinarily sold in bundles, and cotton thread, namely, sewing, darning, crochet or handicraft thread, which have been manufactured, bleached, dyed, or finished in any premises not exempted by the rules made under section 75 shall not be removed for sale from those premises unless, in accordance with the said rules in the case of yarn—

(a) the bundles are conspicuously marked with an indication of the weight of yarn in the English or the metric system in each bundle; and

(b) the count of the yarn contained in the bundle and in the case of thread each unit is conspicuously marked with the length or weight of thread in the unit and in such other manner as may be required by the said rules; and

(c) except where the goods are sold from the premises for export from India, unless each bundle or unit is conspicuously marked with the name of the manufacturer or of the wholesale purchaser in India of the goods:

Provided that the rules made under section 75 shall exempt all premises where the work is done by members of one family with or without the assistance of not more than ten other employees, and all premises controlled by a co-operative society where not more than twenty workers are employed in the premises.

75. Determination of character of textile goods by sampling.—(1) For the purposes of this Act, the Central Government may make rules,—

(a) to provide, with respect to any goods which purport or are alleged to be of uniform number, quantity, measure, gauge or weight, for the number of samples to be selected and tested and for the selection of the samples;

(b) to provide for the manner in which for the purposes of section 74 cotton yarn and cotton thread shall be marked with the particulars required by that section, and for the exemption of certain premises used for the manufacture, bleaching, dyeing or finishing of cotton yarn or cotton thread from the provisions of that section; and

(c) declaring what classes of goods are included in the expression "piece goods such as are ordinarily sold by length or by the piece" for the purpose of section 74 of this Act or section 18 of the Sea Customs Act, 1878 (8 of 1878).

(2) With respect to any goods for the selection and testing of samples of which provision is not made in any rules for the time being in force under sub-section (1), the court or officer of customs, as the case may be, having occasion to ascertain the number, quantity, measure, gauge or weight of the goods, shall, by order in writing, determine the number of samples to be selected and tested and the manner in which the samples are to be selected.

(3) The average of the results of the testing in pursuance of rules under sub-section (1) or of an order under sub-section (2) shall be *prima facie* evidence of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

(4) If a person having any claim to, or in relation to, any goods of which samples have been selected and tested in pursuance of rules under sub-section (1), or of an order under sub-section (2), desires that any further samples of the goods be selected and tested, such further samples shall, on his written application and on the payment in advance by him to the court or officer of customs, as the case may be, of such sums for defraying the cost of the further selection and testing as the court or officer may from time to time require, be selected and tested to such extent as may be permitted by rules made by the Central Government in this behalf or as in the case of goods with respect to which provision is not made in such rules, the court or officer of customs may determine in the circumstances to be reasonable, the samples being selected in the manner prescribed under sub-section (1), or in sub-section (2), as the case may be.

(5) The average of the results of the testing referred to in sub-section (3) and of the further testing under sub-section (4) shall be conclusive proof of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

CHAPTER X

OFFENCES, PENALTIES AND PROCEDURE

76. Meaning of applying trade marks and trade descriptions.—(1) A person shall be deemed to apply a trade mark or mark or trade description to goods who—

(a) applies it to the goods themselves; or

(b) applies it to any package in or with which the goods are sold, or exposed for sale, or had in possession for sale or for any purpose of trade or manufacture; or

(c) places, encloses, or annexes any goods which are sold, or exposed for sale, or had in possession for sale or for any purpose of trade or manufacture, in or with any package or other thing to which a trade mark or mark or trade description has been applied; or

(d) uses a trade mark or mark or trade description in any manner reasonably likely to lead to the belief that the goods in connection with which it is used are designated or described by that trade mark or mark or trade description; or

(e) in relation to the goods uses a trade mark or trade description in any sign advertisement invoice, catalogue, business letter, business paper, price list, or other commercial document, and goods are delivered to a person in pursuance of a request, or order made by reference to the trade mark or trade description as so used.

(2) A trade mark or mark or trade description shall be deemed to be applied to goods whether it is woven in, impressed on, or otherwise worked into, or annexed or affixed to, the goods or to any package or other thing.

77. Falsifying and falsely applying trade marks.—() A person shall be deemed to falsify a trade mark who, either,—

(a) without the assent of the proprietor of the trade mark marks that trade mark or a deceptively similar mark; or

(b) falsifies any genuine trade mark, whether by alteration, addition, effacement or otherwise.

(2) A person shall be deemed to falsely apply to goods a trade mark who, without the assent of the proprietor of the trade mark,

(a) applies such trade mark or a deceptively similar mark to goods or any package containing goods;

(b) uses any package bearing a mark which is identical with or deceptively similar to the trade mark of such proprietor, for the purpose of packing, filling, or wrapping therein any goods other than the genuine goods of the proprietor of the trade mark.

(3) Any trade mark falsified as mentioned in sub-section (1) or falsely applied as mentioned in sub-section (2), is in this Act referred to as a false trade mark.

(4) In any prosecution for falsifying a trade mark or falsely applying a trade mark to goods, the burden of proving the assent of the proprietor shall lie on the accused.

78. Penalty for applying false trade marks, trade descriptions, etc.—Any person who,—

(a) falsifies any trade mark; or

(b) falsely applies to goods any trade mark; or

(c) makes, disposes of, or has in his possession, any die, block, machine, plate or other instrument for the purpose of falsifying, or of being used for falsifying, a trade mark; or

(d) applies any false trade description to goods; or

(e) applies to any goods to which an indication of the country or place in which they were made or produced or the name and address of the manufacturer or person for whom the goods are manufactured is required to be applied under section 117, a false indication of such country, place, name or address; or

(f) tampers with, alters or effaces an indication of origin which has been applied to any goods to which it is required to be applied under section 117; or

(g) causes any of the things above mentioned in this section to be done;

shall, unless he proves that he acted without intent to defraud, be punishable with imprisonment for a term which may extend to two years, or with fine, or with both:

Provided that where the offence under this section is in relation to goods or any package containing goods which are drugs within the meaning of clause (d) of section 3 of the Drugs Act, 1940 (23 of 1940), or "food" as defined in clause (v) of section 2 of the Prevention of Food Adulteration Act, 1954 (37 of 1954), the offender shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

79. Penalty for selling goods to which a false trade mark or false trade description is applied.—Any person who sells, or exposes for sale, or has in his possession for sale or for any purpose of trade or manufacture, any goods or things to which any false trade mark or false trade description is applied, or which, being required under section 117 to have applied to them an indication of the country or place in which they were made or produced or the name and address of the manufacturer or the person for whom the goods are manufactured, are without the indication so required,

shall, unless he proves,—

(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade mark or trade description or that any offence had been committed in respect of the goods; and

(b) that, on demand by or on behalf of the prosecutor, he gave all the information in his power with respect to the person from whom he obtained such goods or things; or

(c) that, otherwise he had acted innocently; be punishable with imprisonment for a term which may extend to two years, or with fine, or with both:

Provided that when the offence against this section is in relation to goods or any package containing goods which are "drugs" as defined in clause (b) of section 3 of the Drugs Act, 1940 (23 of 1940), or "food" as defined in clause (v) of section 2 of the Prevention of Food Adulteration Act, 1954 (37 of 1954), the offender shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

80. Penalty for removing piece goods, etc., contrary to section 74.—If any person removes or attempts to remove or causes or attempts to cause to be removed for sale from any premises referred to in section 74, or sells or exposes for sale or has in his possession for sale or for any purpose of trade or manufacture piece goods or cotton yarn or cotton thread which is not marked as required by that section, every such piece and every such bundle of yarn and all such thread and everything used for the packing thereof shall be forfeited to Government and such person shall be punishable with fine which may extend to one thousand rupees.

81. Penalty for falsely representing a trade mark as registered.—(1) No person shall make any representation—

(a) with respect to a mark not being a registered trade mark, to the effect that it is a registered trade mark; or

(b) with respect to a part of a registered trade mark not being a part separately registered as a trade mark, to the effect that it is separately registered as a trade mark; or

(c) to the effect that a registered trade mark is registered in respect of any goods in respect of which it is not in fact registered; or

(d) to the effect that the registration of a trade mark gives an exclusive right to the use thereof in any circumstances in which, having regard to limitations entered on the register, the registration does not in fact give that right.

(2) If any person contravenes any of the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(3) For the purposes of this section, the use in India in relation to a trade mark of the word "registered", or of any other expression referring whether expressly or impliedly to registration, shall be deemed to import a reference to registration in the register, except—

(a) where that word or other expression is used in direct association with other words delineated in characters at least as large as those in which that

word or other expression is delineated and indicating that the reference is to registration as a trade mark under the law of a country outside India being a country under the law of which the registration referred to is in fact in force; or

(b) where that other expression is of itself such as to indicate that the reference is to such registration as is mentioned in clause (a); or

(c) where that word is used in relation to a mark registered as a trade mark under the law of a country outside India and in relation solely to goods to be exported to that country.

82. Penalty for improperly describing a place of business as connected with the Trade Marks Office.—If any person uses on his place of business, or on any document issued by him, or otherwise, words which would reasonably lead to the belief that his place of business is, or is officially connected with, the Trade Marks Office, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

83. Penalty for falsification of entries in the register.—If any person makes, or causes to be made, a false entry in the register, or writing falsely purporting to be a copy of an entry in the register, or produces or tenders, or causes to be produced or tendered, in evidence any such writing, knowing the entry or writing to be false, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

84. No offence in certain cases.—The provisions of section 77, 78 and 79 shall, in relation to a registered trade mark or proprietor of such mark, be subject to the rights created or recognised by this Act, and no act or omission shall be deemed to be an offence under section 77 or section 78 or section 79 if,—

(a) the alleged offence relates to a registered trade mark and the act or omission is permitted under this Act; and

(b) the alleged offence relates to a registered or an unregistered trade mark and the act or omission is permitted under any other law for the time being in force.

85. Forfeiture of goods.—(1) Where a person is convicted of an offence under section 78 or section 79, or is acquitted of an offence under section 78 on proof that he acted without intent to defraud, or under section 79 on proof of the matters specified in clauses (a), (b) and (c) of that section, the court convicting or acquitting him may direct the forfeiture to Government of all goods and things by means of, or in relation to, which the offence has been committed, or but for such proof as aforesaid would have been committed.

(2) When a forfeiture is directed on a conviction and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

(3) When a forfeiture is directed on an acquittal and the goods or things to which the direction relates are of value exceeding fifty rupees, an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the court to which in appealable cases appeals lie from sentences of the court which directed the forfeiture.

(4) When a forfeiture is directed on a conviction the court, before whom the person is convicted, may order any forfeited articles to be destroyed or otherwise disposed of as the court thinks fit.

86. Exemption of certain persons employed in ordinary course of business.—Where a person accused of an offence under section 78 proves—

(a) that in the ordinary course of his business he is employed on behalf of other persons to apply trade marks or trade descriptions, or, as the case may be, to make dies, blocks, machines, plates, or other instruments for making, or being used in making, trade marks; and

(b) that in the case which is subject of the charge he was so employed, and was not interested in the goods or other thing by way of profit or commission dependent on the sale of such goods; and

(c) that, having taken all reasonable precautions against committing the offence charged, he had at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark or trade description; and

(d) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons on whose behalf the trade mark or trade description was applied; he shall be acquitted.

87. Procedure where invalidity of registration is pleaded by the accused.—(1) Where the offence charged under section 78 or section 79 is in relation to a registered trade mark and the accused pleads that the registration of the trade mark is invalid, the following procedure shall be followed:—

(a) If the magistrate is satisfied that such defence is *prima facie* tenable, he shall not proceed with the charge but shall adjourn the proceeding for three months from the date on which the plea of the accused is recorded to enable the accused to file an application before the High Court under this Act, for the rectification of the register on the ground that the registration is invalid.

(b) If the accused proves to the magistrate that he has made such application within the time so limited or within such further time as the magistrate may for sufficient cause allow, the further proceedings in the prosecution shall stand stayed till the disposal of such application for rectification and of the appeal, if any, therefrom.

(c) If within a period of three months or within such extended time as may be allowed by the magistrate the accused fails to apply to the High Court for rectification of the register, the magistrate shall proceed with the case as if the registration were valid.

(2) Where before the institution of a complaint of an offence referred to in sub-section (1), any application for the rectification of the register concerning the trade mark in question on the ground of invalidity of the registration thereof has already been properly made to and is pending before the tribunal, the magistrate shall stay the further proceedings in the prosecution pending the disposal of the application aforesaid and shall determine the charge against the accused in conformity with the result of the application for rectification in so far as the complainant relies upon the registration of his mark.

88. Offences by companies.—(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and

shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

89. Cognizance of certain offences.—(1) No court shall take cognizance of an offence under section 81, section 82 or section 83 except on complaint in writing made by the Registrar or any officer authorised by him in writing.

(2) No court inferior to that of a sessions judge, presidency magistrate or magistrate of the first class shall try an offence under this Act.

90. Evidence of origin of goods imported by sea.—In the case of goods brought into India by sea, evidence of the port of shipment shall, in the prosecution for an offence under this Act or under clause (d), clause (dd), clause (e), clause (f), clause (h), clause (i) or clause (j) of section 18 of the Sea Customs Act, 1878, (8 of 1878), be *prima facie* evidence of the place or country in which the goods were made or produced.

91. Cost of defence or prosecution.—In any prosecution under this Act, the Court may order such costs to be paid by the accused to the complainant, or by the complainant to the accused, as the court deemed reasonable having regard to all the circumstances of the case and the conduct of the parties. Costs so awarded shall be recoverable as if they were a fine.

92. Limitation of prosecution.—No prosecution for an offence under this Act or under clause (d), clause (dd), clause (e), clause (f), clause (h), clause (i) or clause (j) of section 18 of the Sea Customs Act, 1878 (8 of 1878), shall be commenced after the expiration of three years next after the commission of the offence charged, or two years after the discovery thereof by the prosecutor, whichever expiration first happens.

93. Information as to commission of offence.—An officer of the Government whose duty it is to take part in the enforcement of the provisions of this Chapter, shall not be compelled in any court to say whence he got any information as to the commission of any offence against this Act.

94. Punishment of abetment in India of acts done out of India.—If any person, being within India, abets the commission, without India, of any act which, if committed in India, would, under this Act, be an offence, he may be tried for such abetment in any place in India in which he may be found, and be punished therefor with the punishment to which he would be

liable if he had himself committed in that place the act which he abetted.

95. Instructions by Central Government as to permissible variations to be observed by criminal courts.—The Central Government may, by notification in the Official Gazette, issue instructions for the limits of variation, as regards number, quantity, measure, gauge or weight, which are to be recognised by criminal courts as permissible in the case of any goods.

CHAPTER XI

MISCELLANEOUS

96. Implied warranty on sale of marked goods.—On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied, the seller shall be deemed to warrant that the mark is a genuine mark and not falsely applied, and that the trade description is not a false trade description within the meaning of this Act, unless the contrary is expressed in some writing signed by or on behalf of the seller and delivered at the time of the sale or contract to and accepted by the buyer.

97. Powers of Registrar.—In all proceedings under this Act before the Registrar—

(a) the Registrar shall have all the powers of a civil court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, compelling the discovery and production of documents and issuing commissions for the examination of witnesses;

(b) the Registrar may, subject to any rules made in this behalf under section 133, make such orders as to costs as he considers reasonable, and any such order shall be executable as a decree of a civil court:

Provided that the Registrar shall have no power to award costs to or against any party on an appeal to him against a refusal of the proprietor of a certification trade mark to certify goods or to authorise the use of the mark;

(c) the Registrar may, on an application made in the prescribed manner, review his own decision.

98. Exercise of discretionary power by Registrar.—Subject to the provisions of section 101, the Registrar shall not exercise any discretionary or other power vested in him by this Act or the rules made thereunder adversely to a person applying for the exercise of that power without (if so required by that person within the prescribed time) giving to that person an opportunity of being heard.

99. Evidence before the Registrar.—In any proceeding under this Act before the Registrar, evidence shall be given by affidavit:

Provided that the Registrar may, if he thinks fit, take oral evidence in lieu of, or in addition to, such evidence by affidavit.

100. Death of party to a proceeding.—If a person who is a party to a proceeding under this Act (not being a proceeding in a court) dies pending the proceeding, the Registrar may, on request, and on proof to his satisfaction of the transmission of the interest of the deceased person, substitute in the proceeding his successor in interest in his place, or, if the Registrar is of opinion that the interest of the deceased person is sufficiently represented by the surviving parties, permit the proceeding to continue without the substitution of his successor in interest.

101. Extension of time.—(1) If the Registrar is satisfied, on application made to him in the prescribed manner and accompanied by the prescribed fee, that there is sufficient cause for extending the time for doing any act (not being a time expressly provided in the Act), whether the time so specified has expired or not, he may, subject to such conditions as he may think fit to impose, extend the time and notify the parties accordingly.

(2) Nothing in sub-section (1) shall be deemed to require the Registrar to hear the parties before disposing of an application for extension of time, and no appeal shall lie from any order of the Registrar under this section.

102. Abandonment.—Where, in the opinion of the Registrar, an applicant is in default in the prosecution of an application filed under this Act or any Act relating to trade marks in force prior to the commencement of this Act, the Registrar may by notice require the applicant to remedy the default within a time specified and after giving him, if so desired, an opportunity of being heard, treat the application as abandoned, unless the default is remedied within the time specified in the notice.

103. Preliminary advice by the Registrar as to distinctiveness.—(1) The Registrar may, on application made to him in the prescribed manner by any person who proposes to apply for the registration of a trade mark in Part A or Part B of the register, give advice as to whether the trade mark appears to him *prima facie* to be inherently adapted to distinguish, or capable of distinguishing, as the case may be.

(2) If, on an application for the registration of a trade mark as to which the Registrar has given advice as aforesaid in the affirmative made within three months after the advice was given, the Registrar, after further investigation or consideration, gives notice to the applicant of objection on the ground that the trade mark is not adapted to distinguish, or is not capable of distinguishing, as the case may be, the applicant shall be entitled, on giving notice of withdrawal of the application within the prescribed period, to have repaid to him any fee paid on the filing of the application.

104. Procedure before Central Government.—In all proceedings under this Act before the Central Government, evidence shall be given by affidavit:

Provided that the Central Government may, if it thinks fit, take oral evidence in lieu of, or in addition to, such evidence by affidavit, and shall for that purpose have all the powers of a civil court referred to in clause (a) of section 97.

105. Suit for infringement, etc., to be instituted, before District Court.—No suit—

- (a) for the infringement of a registered trade mark; or
 - (b) relating to any rights in a registered trade mark; or
 - (c) for passing off arising out of the use by the defendant of any trade mark which is identical with or deceptively similar to the plaintiff's trade mark, whether registered or unregistered;
- shall be instituted in any court inferior to a District Court having jurisdiction to try the suit.

106. Reliefs in suits for infringement or for passing off.—(1) The relief which a court may grant in any suit for infringement or for passing off referred to in section 105 includes an injunction (subject to such terms, if any, as the court thinks fit) and at the option of the plaintiff, either damages or an account of profits,

together with or without any order for the delivery up of the infringing labels and mark for destruction or erasure.

(2) Notwithstanding anything contained in sub-section (1), the court shall not grant relief by way of damages (other than nominal damages) or an account of profits in any case—

(a) where in a suit for infringement of a trade mark, the infringement complained of is in relation to a certification trade mark; or

(b) where in a suit for infringement the defendant satisfies the court—

(i) that at the time he commenced to use the trade mark complained of in the suit he was unaware and had no reasonable ground for believing that the trade mark of the plaintiff was on the register or that the plaintiff was a registered user using by way of permitted use; and

(ii) that when he became aware of the existence and nature of the plaintiff's right in the trade mark, he forthwith ceased to use the trade mark in relation to goods in respect of which it was registered; or

(c) where in a suit for passing off the defendant satisfies the Court—

(i) that at the time he commenced to use the trade mark complained of in the suit he was unaware and had no reasonable ground for believing that the trade mark of the plaintiff was in use; and

(ii) that when he became aware of the existence and nature of the plaintiff's trade mark, he forthwith ceased to use the trade mark complained of.

107. Application for rectification of register to be made to High Court in certain cases.—(1) Where in a suit for infringement of a registered trade mark the validity of the registration of the plaintiff's trade mark is questioned by the defendant or where in any such suit the defendant raises a defence under clause (d) of sub-section 30 and the plaintiff questions the validity of the registration of the defendant's trade mark, the issue as to the validity of the registration of the trade mark concerned shall be determined only on an application for the rectification of the register, and notwithstanding anything contained in section 46, sub-section (4) of section 47, or section 56, such application shall be made to the High Court and not to the Registrar.

(2) Subject to the provisions of sub-section (1), where an application for rectification of the register under section 46 or sub-section (4) of section 47 or section 56, the Registrar may, if he thinks fit, refer the application at any stage of the proceeding to the High Court.

108. Procedure for application for rectification before a High Court.—(1) An application for rectification of the register made to a High Court under section 46, sub-section (4) of section 47 or section 56 shall be in such form and shall contain such particulars as may be prescribed.

(2) Every such application shall be heard by a single Judge of the High Court:

Provided that any such Judge may, if he thinks fit, refer the application at any stage of the proceedings for decision to a Bench of that High Court.

(3) Where any such application is heard by a single Judge of the High Court, an appeal shall lie from the order made by him on application to a Bench of the High Court.

(4) Subject to the provisions of this Act and the rules made thereunder, the provisions of the Code of Civil Procedure, 1908 (5 of 1908), shall apply to applications to a High Court under this section.

(5) A certified copy of every order or judgement of the High Court or of the Supreme Court, as the case may be, relating to a registered trade mark under this section shall be communicated to the Registrar by that Court and the Registrar shall give effect to the order of the Court and shall, when so directed, amend the entries in, or rectify, the register in accordance with such order.

109. Appeals.—(1) No appeal shall lie from any decision, order or direction made or issued under this Act by the Central Government or from any act or order of the Registrar for the purpose of giving effect to any such decision, order or direction.

(2) Save as otherwise expressly provided in sub-section (1) or in any other provision of this Act, an appeal shall lie to the High Court within the prescribed period from any order or decision of the Registrar under this Act or the rules made thereunder.

(3) Every such appeal shall be preferred by petition in writing and shall be in such form and shall contain such particulars as may be prescribed.

(4) Every such appeal shall be heard by a single Judge of the High Court:

Provided that any such Judge may, if he so thinks fit, refer the appeal at any stage of the proceeding to a Bench of the High Court.

(5) Where an appeal is heard by a single Judge, a further appeal shall lie to a Bench of the High Court.

(6) The High Court in disposing of an appeal under this section shall have the power to make any order which the Registrar could make under this Act.

(7) In an appeal by an applicant for registration against a decision of the Registrar under section 17 or section 18 or section 21, it shall not be open, save with the express permission of the court, to the Registrar or any party opposing the appeal to advance grounds other than those recorded in the said decision or advanced by the party in the proceedings before the Registrar, as the case may be, and where any such additional grounds are advanced, the applicant for registration may, on giving notice in the prescribed manner, withdraw his application without being liable to pay the costs of the Registrar or the parties opposing his application.

(8) Subject to the provisions of this Act and of the rules made thereunder, the provisions of the Code of Civil Procedure, 1908 (5 of 1908), shall apply to appeals before a High Court under this Act.

110. Power of High Courts to make rules.—The High Court may make rules consistent with this Act as to the conduct and procedure of all proceedings under this Act before it.

111. Stay of proceedings where the validity of registration of the trade mark is questioned, etc.—(1) Where in any suit for the infringement of a trade mark—

(a) the defendant pleads that the registration of the plaintiff's trade marks is invalid; or

(b) the defendant raises a defence under clause (d) of sub-section (1) of section 30 and the plaintiff pleads the invalidity of the registration of the defendant's trade mark;

the court trying the suit (hereinafter referred to as the

court), shall,—

(i) if any proceedings for rectification of the register in relation to the plaintiff's or defendant's trade mark are pending before the Registrar or the High Court, stay the suit pending the final disposal of such proceedings;

(ii) if no such proceedings are pending and the court is satisfied that the plea regarding the invalidity of the registration of the plaintiff's trade mark is *prima facie* tenable, raise an issue regarding the same and adjourn the case for a period of three months from the date of the framing of the issue in order to enable the party concerned to apply to the High Court for rectification of the register.

(2) If the party concerned proves to the court that he has made any such application as is referred to in clause (b) (ii) of sub-section (1) within the time specified therein or within such extended time as the court may for sufficient cause allow, the trial of the suit shall stand stayed until the final disposal of the rectification proceedings.

(3) If no such application as aforesaid has been made within the time so specified or within such extended time as the court may allow, the issue as to the validity of the registration of the trade mark concerned shall be deemed to have been abandoned and the court shall proceed with the suit in regard to the other issues in the case.

(4) The final order made in any rectification proceedings referred to in sub-section (1) or sub-section (2) shall be binding upon the parties and the court shall dispose of the suit conformably to such order in so far as it relates to the issue as to the validity of the registration of the trade mark.

(5) The stay of a suit for the infringement of a trade mark under this section shall not preclude the court making any interlocutory order (including any order granting an injunction, directing accounts to be kept, appointing a receiver or attaching any property), during the period of the stay of the suit.

112. Appearance of Registrar in legal proceedings.—(1) The Registrar shall have the right to appear and be heard—

(a) in any legal proceedings before a High Court in which the relief sought includes alteration or rectification of the register or in which any question relating to the practice of Trade Mark Registry is raised;

(b) in any appeal to the High Court from an order of the Registrar on the application for registration of a trade mark—

(i) which is not opposed and the application is either refused by the Registrar or is accepted by him subject to any amendments, modifications, conditions or limitations; or

(ii) which has been opposed and the Registrar considers that his appearance is necessary in the public interest;

and the Registrar shall appear in any case if so directed by the court.

(2) Unless the High Court otherwise directs, the Registrar may, in lieu of appearing, submit a statement in writing signed by him, giving such particulars as he thinks proper of the proceedings before him relating to the matter in issue, or of the grounds of any decision given by him affecting it, or of the practice of the Trade Marks Registry in like cases, or of other matters relevant to the issues and within his knowledge as Registrar and such statement shall be evidence in the proceeding.

113. Costs of Registrar in proceedings before High Court.—In all proceedings under this Act before a High Court the costs of the Registrar shall be in the discretion of the High Court, but the Registrar shall not be ordered to pay the costs of any of the parties.

114. Registered user to be impleaded in certain proceedings.—(1) In every proceeding under Chapter VII or under section 109, every registered user of a trade mark using by way of permitted use, who is not himself an applicant in respect of any proceeding under that Chapter or section, shall be made a party to the proceeding.

(2) Notwithstanding anything contained in any other law, a registered user so made a party to the proceeding shall not be liable for any costs unless he enters an appearance and takes part in the proceeding.

115. Evidence of entries in register, etc. and things done by the Registrar.—(1) A copy of entry in the register or of any document referred to in sub-section (1) of section 125, purporting to be certified by the Registrar and sealed with the seal of the Trade Marks Registry, shall be admitted in evidence in all courts and in all proceedings without further proof or production of the original.

(2) A certificate purporting to be under the hand of the Registrar as to any entry, matter or thing that he is authorised by this Act or the rules to make or do shall be *prima facie* evidence of the entry having been made, and of the contents thereof, or of the matter or thing having been done or not done.

116. Registrar and other officers and compellable to produce register, etc.—The Registrar or any other officer of the Trade Marks Registry shall not, in any legal proceedings to which he is not a party, be compellable to produce the register or any other document in his custody, the contents of which can be proved by the production of a certified copy issued under this Act or to appear as a witness to prove the matters therein recorded unless by order of the court made for special cause.

117. Power to require goods to show indication of origin.—(1) The Central Government may, by notification in the Official Gazette, require that goods of any class specified in the notification which are made or produce beyond the limits of India and imported into India, or which are made or produced within the limits of India, shall from such date as may be appointed by the notification not being less than three months from issue, have applied to them an indication of the country or place in which they were made or produced or of the name address of the manufacturer or the person for whom the goods were manufactured.

(2) The notification may specify the manner in which such indication shall be applied, that is to say, whether to the goods themselves or in any other manner, and the times or occasions on which the presence of the indication shall be necessary, that is to say, whether on importation only, or also at the time of sale, whether by wholesale or retail or both.

(3) No notification under this section shall be issued, unless application is made for its issue by persons or associations substantially representing the interests of dealers in, or manufacturers, producers, or users of, the goods concerned, or unless the Central Government is otherwise convinced that it is necessary in the public interest to issue the notification, with or without such inquiry as the Central Government may consider necessary.

(4) The provisions of section 23 of the General Clauses Act 1897 (10 of 1897), shall apply to the issue of a notification under this section as they apply to the

making of a rule or bye-law the making of which is subject to the condition of previous publication.

(5) A notification under this section shall not apply to goods made or produced beyond the limits of India and imported into India, if in respect of those goods, the Chief Customs Officer is satisfied at the time of importation that they are intended for exportation whether after transshipment in or transit through India or otherwise.

118. Power to require information in respect of imported goods bearing false trade marks.—(1) Where goods, which are prohibited to be imported into India under clause (d), clause (dd), clause (e), clause (f), clause (h), clause (i) or clause (j) of section 18 of the Sea Customs Act 1878 (8 of 1878), and are liable to detention and confiscation on importation under that Act, are imported into India, the Chief Customs Officer if, upon representation made to him, he has reason to believe that the trade mark complained of is used as a false trade mark, may require the importer of the goods, or his agent, to produce any documents in his possession relating to the goods and to furnish information as to the name and address of the person by whom the goods were consigned to India and the name and address of the person to whom the goods were sent in India.

(2) The importer or his agent shall, within fourteen days, comply with the requirement as aforesaid, and if he fails to do so he shall be punishable with fine which may extend to five hundred rupees.

(3) Any information obtained from the importer of the goods or his agent under this section may be communicated by the Chief Customs Officer to the registered proprietor or registered user of the trade mark which is alleged to have been used as a false trade mark.

119. Certificate of validity.—If in any legal proceeding for rectification or the register before a High Court a decision is on contest given in favour of the registered proprietor of the trade mark on the issue as to the validity of the registration of the trade mark, the High Court may grant a certificate to that effect, and if such a certificate is granted, then in any subsequent legal proceeding in which the said validity comes into question the said proprietor on obtaining a final order or judgment in his favour affirming the validity of the registration of the trade mark shall, unless the said final order or judgment for sufficient reason directs otherwise, be entitled to his full costs, charges and expenses as between legal practitioner and client.

120. Groundless threats of legal proceedings.—(1) Where a person, by means of circulars, advertisements or otherwise, threatens a person with an action or proceeding for infringement of a trade mark which is registered, or alleged by the first-mentioned person to be registered, or with some other like proceeding, a person aggrieved may, whether the person making the threats is or is not the registered proprietor or the registered user of the trade mark, bring a suit against the first-mentioned person and may obtain a declaration to the effect that the threats are unjustifiable, and an injunction against the continuance of the threats, and may recover such damages (if any) as he has sustained, unless the first-mentioned person satisfies the court that the trade mark is registered, and that the acts in respect of which the proceedings were threatened constitute, or, if done, would constitute, an infringement of the trade mark.

(2) The last preceding sub-section does not appeal if the registered proprietor of the trade mark, or a registered user acting in pursuance of sub-section (1)

of section 51, with due diligence commences and prosecutes an action against the person threatened for infringement of the trade mark.

(3) Nothing in this section shall render a legal practitioner or a registered trade marks agent liable to an action under this section in respect of an act done by him in his professional capacity on behalf of a client.

(4) A suit under sub-section (1) shall not be instituted in any court inferior to a District Court.

121. Address for service.—An address for service, stated in an application or notice of opposition shall for the purposes of the application or notice of opposition, be deemed to be the address of the applicant or opponent, as the case may be, and all documents in relation to the application or notice of opposition may be served by leaving them at or sending them by post to the address for service of the applicant, or opponent, as the case may be.

122. Trade usage, etc. to be taken into consideration.—In any suit or other proceeding relating to a trade mark, the tribunal shall admit evidence of the usages of the trade concerned and of any relevant trade mark or trade name or get up legitimately used by other persons.

123. Agents.—Where, by or under this Act, any act, other than the making of an affidavit, is required to be done before the Registrar by any person, the act may, subject to the rules made in this behalf, be done, instead of by that person himself, by a person duly authorised in the prescribed manner, who is—

- (a) a legal practitioner, or
- (b) a person registered in the prescribed manner as a trade marks agent, or
- (c) a person in the sole and regular employment of the principal.

124. Indexes.—There shall be kept under the direction and supervision of the Registrar,—

- (a) an index of registered trade marks,
- (b) an index of trade marks in respect of which applications for registration are pending,
- (c) an index of the names of the proprietors of registered trade marks, and
- (d) an index of the names of registered users.

125. Documents open to public inspection.—(1) Save as otherwise provided in sub-section (5) of section 49,—

- (a) the register, and any document upon which any entry in the register is based;
- (b) every notice of opposition to the registration of a trade mark, application for rectification before the Registrar, counterstatement thereto, and any affidavit or document filed by the parties in any proceedings before the Registrar;
- (c) all regulations deposited under section 65, and all applications under section 69 for varying such regulations;
- (d) the indexes mentioned in section 124; and
- (e) such other documents as the Central Government may, by notification in the Official Gazette, specify;

shall, subject to such conditions as may be prescribed, be open to public inspection at the Trade Marks Registry.

(2) Any person may, on application to the Registrar and on payment of such fees as may be prescribed, obtain a certified copy of any entry in the register or any document referred to in sub-section (1).

126. Reports of Registrar to be placed before parliament.—The Central Government shall cause to be placed before both Houses of Parliament once a year a report

respecting the execution by or under the Registrar of this Act.

127. Fees.—(1) There shall be paid in respect of applications and registration and other matters under this Act such fees as may be prescribed by the Central Government.

(2) Where a fee is payable in respect of the doing of an act by the Registrar, the Registrar shall not do that act until the fee has been paid.

(3) Where a fee is payable in respect of the filing of a document at the Trade Mark Registry, the document shall be deemed not to have been filed at the Registry until the fees has been paid.

128. Savings in respect of certain matters in Chapter X.—Nothing in Chapter X shall—

(a) exempt any person from any suit or other proceeding which might, but for anything in that Chapter, be brought against him,

(b) entitle any person to refuse to make a complete discovery, or to answer any question or interrogatory in any suit or other proceeding, but such discovery or answer shall not be admissible in evidence against such person in any such prosecution for an offence under Chapter X or against clause (d), clause (dd), clause (e), clause (f), clause (h), clause (i), or clause (j) of section 18 of the Sea Customs Act, 1878 (8 of 1878), or

(c) be construed so as to render liable to any prosecution or punishment any servant of a master resident in India who in good faith acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master and as to the instructions which he has received from his master.

129. Declaration as to ownership of trade mark not registrable under the Indian Registration Act, 1908.—Notwithstanding anything contained in the India Registration Act, 1908 (16 of 1908), no document declaring or purporting to declare the ownership or title of a person to a trade mark other than a registered trade mark shall be registered under this Act.

130. Government to be bound.—The provisions of this Act shall be binding on the Government.

131. Special provisions relating to applications for registration from citizens of convention countries.—(1) With a view to the fulfilment of a treaty, convention or arrangement, with any country outside India which affords to citizens of India similar privileges as granted to its own citizens, the Central Government may, by notification in the Official Gazette, declare such country to be a convention country for the purposes of this Act.

(2) Where a person has made an application for the registration of a trade mark in a convention country and that person, or his legal representative or assignee, makes an application for the registration of the trade mark in India within six months after the date on which the application was made in the convention country, the trade mark shall, if registered under this Act, be registered as of the date on which the application was made in the convention country and that date shall be deemed for the purposes of this Act to be the date of registration.

(3) Where applications have been made for the registration of a trade mark in two or more convention countries, the period of six months referred to in the last preceding sub-section shall be reckoned from the date on which the earlier or earliest of those applications was made.

132. Provision as to reciprocity.—Where any country specified by the Central Government in this behalf by notification in the Official Gazette does not accord to citizens of India the same rights in respect of the registration and protection of trade marks as it accords to its own nationals, no nationals of such country shall be entitled, either solely or jointly with any other person—

(a) to apply for the registration of, or be registered as the proprietor of, a trade mark in Part A or Part B of the Register,

(b) to be registered as the assignee of the proprietor of a registered trade mark, or

(c) to apply for registration, or be registered as a registered user of a trade mark under section 49.

133. Power of Central Government to make rules.—

(1) The Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the classification of goods for the purpose of the registration of trade marks, and the empowering of the Registrar to amend the register so far as may be necessary for the purpose of adapting the entries therein to any amended or substituted classification;

(b) the making of duplicates of trade marks and other documents connected therewith;

(c) the securing and regulating the publication, sale or distribution of copies of trade marks and other documents connected therewith;

(d) the additional matters to be entered in the register;

(e) the conditions and restrictions subject to which the register, the Refused Textile Marks List and other documents may be inspected;

(f) the form of certificates of registration;

(g) the further documents, information or evidence which should accompany an application under subsection (1) of section 49;

(h) the prescribing of classes of goods as textile goods for the purposes of section 71;

(i) the awarding of costs by the Registrar under section 97;

(j) the conditions subject to which a person may be registered as a trade marks agent, and the conditions subject to which an agent referred to in section 123 may act;

(k) the fees to be paid under this act;

(l) the establishment of offices of the Trade Marks Registry for facilitating the working of this act, the territorial jurisdiction of each office of the Trade Marks Registry and the preparation of the copies of the register to be kept at such offices;

(m) the transfer of application and proceedings pending at the commencement of this Act in any office of the Registry to the appropriate office of the Registry;

(n) the manner in which, in proceedings under this Act before the Central Government or the Registrar, applications shall be made, notices given and matters advertised;

(o) the times or periods required by this Act to be prescribed;

(p) the regulation generally of the business of the Trade Mark Registry and of the offices established under clause (l) and the regulation of all things by

this Act placed under the direction or control of the Central Government of the Registrar;

(q) the number of samples to be selected and tested and for the selection of the samples for the purposes of section 75;

(r) The manner in which cotton yarn and cotton thread shall be marked with the particulars required by section 74, and the exemption of certain premises from the provisions of that section;

(s) the classes of goods included in the expression "piece goods, such as are ordinarily sold by length or by the piece" for the purposes of section 74, and clause (f) of section 18 of the Sea Customs Act, 1878 (8 of 1878);

(t) any other matter which is required to be or may be prescribed.

134. Rules to be placed before Parliament.—All rules made under this Act shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made and shall be subject to such modifications as Parliament may make in the session in which they are so laid or the session immediately following.

135. Amendments.—The enactments specified in the Schedule shall be amended in the manner specified therein.

136. Repeals and savings.—(1) The Indian Merchandise Marks Act, 1889 (4 of 1889), and the Trade Marks Act, 1940 (5 of 1940), are hereby repealed.

(2) Without prejudice to the provisions contained in the General Clauses Act, 1897 (10 of 1897), with respect to repeals, any notification, rule, order, requirement, registration, certificate, notice, decision, determination, direction, approval, authorisation, consent, application, request or thing made, issued, given or done under the Trade Marks Act, 1940 (5 of 1940), shall, if in force at the commencement of this Act, continue in force and have effect as if made, issued, given or done under the corresponding provision of this Act.

(3) The provisions of this Act shall apply to any application for registration of a trade mark pending at the commencement of this Act and to any proceedings consequent thereon and to any registration granted in pursuance thereof.

(4) Notwithstanding anything contained in this Act, any legal proceeding pending in any court at the commencement of this Act may be continued in that court as if this Act had not been passed.

THE SCHEDULE

AMENDMENTS

(See section 135)

Year 1	No. 2	Short title 3	Amendment 4
1860	45	The Indian Penal Code.	(i) In the heading to Chapter XVIII, the words "TRADE OR" shall be omitted; (ii) in the heading above section 478, the word "trade," shall be omitted; (iii) section 478, and 480 shall be omitted; (iv) in section 482, the words "any false trade mark or" shall be omitted;

1	2	3	4	1	2	3	4
			(v) in section 483, the words "trade mark or" shall be omitted;				"standard yards or in standard meters" shall be substituted;
			(vi) for section 485, the following section shall be substituted, namely:— Making or "485. Whoever possession makes or has of any ins- in his possession any die, counterfeit- plate or other ting a pro- instrument for perty mark. the purpose of counterfeiting a property mark, or has in possession a property mark for the purpose of denoting that any goods belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."				(iii) for clause (h), the following clause shall be substituted, namely:— "h) goods which are required by a notification under section 117 of the Trade and Merchandise Marks Act, 1958, to have applied to them an indication of the country or place in which they were made or produced or the name and address of the manufacturer or the person for whom the goods were manufactured, unless such goods show such indication applied in the manner specified in the notification;"
			(vii) in section 486, for the words "Whoever sells, or exposes, or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark", the words "Whoever sells, or exposes, or has in possession for sale, any goods or things with a counterfeit property mark" shall be substituted.				(iv) in clause (i), in sub-clause (ii), for the words and figures "under section 20 of the Indian Merchandise Marks Act, 1889 (4 of 1889)", the words and figures "under section 75 of the Trade and Merchandise Marks Act, 1958" shall be substituted;
1877	1	The Specific Relief Act, 1877.	In section 54, the <i>Explanation Illustration (w)</i> shall be omitted.				(v) in clause (j), in sub-clause (ii), for the words and figures "under section 20 of the Indian Merchandise Marks Act, 1889 (4 of 1889)", the words and figures "under section 75 of the Trade and Merchandise Marks Act, 1958" shall be substituted.
1878	8	The Sea Customs Act, 1878.	In Section 18,— (i) for clause (d), the following clauses shall be substituted, namely:— (d) goods having applied thereto a false trade mark within the meaning of section 77 of the Trade and Merchandise Marks Act, 1958; (dd) goods having applied thereto a false trade description within the meaning of clause (f) of sub-section (1) of section 2 of the Trade and Merchandise Marks Act, 1958, otherwise than in relation to any of the matters specified in sub-clauses (ii) and (iii) of clause (u) of that sub-section;"				
			(ii) in clause (f), in sub-clause (ii), for the words "Standard yards", the words	1898	5	The Code of Criminal Procedure, 1898.	In Schedule II,— (i) in the heading to Chapter XVIII, the words "TRADE OR" shall be omitted; (ii) in the heading above section 482, the words "trade and" shall be omitted; (iii) in the second column of the entry relating to section 482, the words "trade or" shall be omitted; (iv) in the second column of the entry relating to section 483, the words "trade or" shall be omitted; (v) in the second column of the entry relating to section 485, the words "or trade" shall be omitted; (vi) in the second column of the entry relating to section 486, the words "or trade" shall be omitted.

भाग 7—भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचनाएं

तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं

शून्य

अनुपूरक

PART V

PROCLAMATION UNDER ORDER 5, RULES 20, C. P. C.

In the Court of Shri A. L. Vaidya, Senior Sub Judge, Kangra at Dharamsala

CIVIL SUIT No. 274 OF 1968

Shri Pritam Singh

(Plaintiff).

Versus

The Union Territory of Himachal Pradesh and others
(Defendants).

Versus

1. Diwan Singh II, Forest Ranger, Rajgarh Divn. c/o D.F.O. Rajgarh.

2. Sham Lal Gupta, Forest Ranger, Dalhousie Division c/o D.F.O. Dalhousie.

3. Balwant Singh, Forest Ranger, Theog, c/o D.F.O. Theog.

4. Bhagat Ram, Forest Ranger, c/o D.F.O. Suket.

5. Karam Dass, Forest Ranger, c/o D.F.O. Suket.

Defendants No. 4, 6, 7, 10 and 12.

Whereas the plaintiff (Shri Pritam Singh) has filed a suit for declaration in this Court on 19-8-68. In this behalf notices and summons the above-named defendants were issued several times, but they are evading the service or have concealed themselves. It has been proved to the satisfaction of this court that they (above-named defendants) cannot be served through ordinary way, hence this proclamation under order 5, rule 20, C.P.C. is issued against them that they should appear in this Court on 30-10-1973 at 10 A.M. personally or through Advocate or any authorised agent, failing which *ex parte* proceedings shall be taken against them.

Given under my hand and the seal of the court on 21-9-1973.

A. L. VAIDYA,
Senior Sub-Judge.

Seal.

PROCLAMATION UNDER ORDER 5, RULE 20, C.P.C.

In the Court of Shri A. L. Vaidya, Senior Sub-Judge Kangra at Dharamsala

CIVIL SUIT No. 274 of 1968

JAISHI RAM

versus

GULABA AND OTHERS.

versus

Smt. Amro wd/o Shambhu, 2. Mast Ram, 3. Mehar Singh, 4. Partap Singh, 5. Atma Ram minor sons of Shambhu through Smt. Amro Devi their mother, caste Ghirth, residents of Sanhun Dakhli Bandahu, Tehsil Palampur, District Kangra (legal representatives of Shambhu).

Whereas the plaintiff (Shri Jaishi Ram) has filed a suit for declaration in this court on 8-5-68. In this behalf notices/summons to the above named defendants were issued several times, but they are evading the service or have concealed themselves. It has been proved to the satisfaction of this court that they cannot be served through ordinary way, hence this proclamation under Order 5, Rule 20, C.P.C. is issued against them that they should attend this court on 30-10-73 at 10 A.M. personally or through some authorised agent or pleader, failing which *ex parte* proceedings shall be taken against them.

Given under my hand and the seal of the court on 21-9-1973.

Seal.

A. L. VAIDYA,
Senior Sub-Judge.

PROCLAMATION UNDER ORDER 5, RULE 20, C.P.C.

In the Court of Shri A. L. Vaidya, Senior Sub-Judge, Kangra at Dharamsala

CIVIL SUIT No. 90 of 1971

Shri Tawaroo *alias* Sawaroo

versus

Shrimati Darshan Devi and others

Versus

1. Om Parkash son of Ichia Ram son of Salig Ram, resident of Bagwan, Tehsil and District Kangra.

(Defendant No. 3).

Whereas in the above noted civil court the plaintiff (Shri Tawaroo *alias* Sawaroo) has filed a suit for declaration on 1-3-71. In this behalf summons to the above named defendant Shri Om Parkash were issued several times, but he is evading the service or have concealed himself. Now it has been proved to the satisfaction of this court that the said person cannot be served through ordinary way, hence this proclamation under Order 5, Rule 20, C.P.C. is issued against him that he should appear in this court on 13-11-73 at 10 A.M. personally or through Advocate, failing which *ex parte* proceedings shall be taken against him.

Given under my hand and the seal of the court on 21-9-1973.

Seal.

A. L. VAIDYA,
Senior Sub-Judge.

In the Court of the Senior Sub-Judge, Simla and Kinnaur districts at Simla, Himachal Pradesh

Dr. (Mrs.) Nirmala Devi Chand, presently Snowdon Hospital

Plaintiff

versus

1. Smt. Mohinder Kaur wd/o S. Pritam Singh.
2. Sh. Jasvinder Singh
3. Sh. Hardev Singh
4. Smt. Chhinder Kaur

Minor sons and daughter of late S. Pritam Singh through Shrimati Mohinder Kaur.

5. Smt. Nimbi *alias* Nirmal Kaur.
6. Smt. Ranjit Kaur
7. Smt. Jasbir Kaur

Daughters of late S. Pritam Singh all resident of Upper Kaithu. Defendants/Respondent.

Civil suit for the recovery of Rs. 2,356 (Rs. 2,000 principal amount and Rs. 356 as interest @ Rs. 6% per annum from 25th April, 1970 till 23rd April, 1970).

To

Smt. Nimbi *alias* Nirmal Kaur
Smt. Ranjit Kaur
Smt. Jasbir Kaur

Daughters of late S. Pritam Singh all residents of upper Kaithu.

Whereas in the above noted case summons to defendants were issued many times but all have been received unexecuted with the report that the defendants are evading the service of the summons and this court is satisfied that the defendants cannot be served in ordinary way hence this proclamation is issued against them and directed to appear in this court on 29-9-1973 at 10 A.M.

through their counsel and personally and defend their case. In case of absence the case will be heard *ex parte*.

Given under my hand and the seal of the Court this 22nd day of September, 1973.

Seal.

SURENDRA PRAKASH,
Senior Sub-Judge.

न्यायालय श्री ए० एल० वैद्य, सीनियर सब-जज महोदय

कांगड़ा, स्थान धर्मशाला

मुकदमा नं० 6 साल 1973

उत्तर अधिकारी प्रमाण-पत्र प्राप्ति हेतु प्रार्थना-पत्र

(1) कृष्ण कुमार, (2) राजकुमार, (3) गोबिन्द कुमार,

नाबालग भूत वाला राम, श्रीमती गीता देवी माता-विधवा-पाला राम,

जात राजपूत, टीका चम्बी, मौजा जयसिंहपुर, तहसील पालमपुर, मारफत कृष्णा होटल, पालमपुर,^k जिला कांगड़ा।

बनाम

सर्वे जन्ता

मुकदमा मुन्द्राजा उनवानबाला में सायल ने उत्तर अधिकारी प्रमाण-पत्र प्राप्ति हेतु प्रार्थना-पत्र इस न्यायालय में दिया है। अतः इस्तहार द्वारा सर्वे जन्ता को सूचित किया जाता है कि यदि इस की निसबत कोई आपत्ति हो तो तिथि 20-10-73 उपस्थित न्यायालय हज़ा हो कर पेश करें, अन्यथा आगामी कार्रवाई की जावेगी।

आज तिथि 21-9-73 को मेरे हस्ताक्षर वा. मोहर से जारी हुआ।

मोहर।

ए० एल० वैद्य,
सीनियर सब जज।

**Monthly Rainfall recorded at 72 Rainguage Stations in Hima chal Pradesh for
the month of December, 1969**

DAILY RAINFALL RECORDED IN HIMACHAL

District and Station	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	13th	14th	15th	16th	17th	18th	19th
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Bilaspur:																			
Sadar	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Ghumarwin	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Raghunathpura	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Bilaspur Obs.	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Chamba:																			
Chamba	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Ludra	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Chhatrari	..	—	—	—	—	—	—	—	—	—	1.5	—	—	—	—	—	—	—	—
Rhandal	..	—	—	—	—	—	—	—	—	—	6.0	—	—	—	—	—	—	—	—
Chowari	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Bathri	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kalatop	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Bharmour	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Tissa	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Bhanota	..	—	—	—	—	—	—	—	—	—	1.3	—	—	—	—	—	—	—	—
Kilar	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kangra:																			
Palampur	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Hamirpur	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Dehra	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kangra	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Dharamsala	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Nurpur	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Una	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kulu:																			
Kulu	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Banjar	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kinnaur:																			
Kilba	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Sangla	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Purbani	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Nichar	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kalpa	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Lahaul and Spiti:																			
Keylong	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kaza	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Mahasu:																			
Rampur	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Rohru	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Jubbal	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Chopal	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Theog	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kumarsain	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Junga	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kasumpti	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Solan	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Arki	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Suni	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kotkhai	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Bashla	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Khadrala	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Shillaroo	..	—	—	—	—	—	—	—	—	—	2.5	—	—	—	—	—	—	—	—
Parala	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kotgarh	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Phancha	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Mashobra (Agromet)	..	—	—	—	—	—	—	—	—	—	4.2	—	—	—	—	—	—	—	—

[illegible]

DAILY RAINFALL RECORDED IN HIMACHAL

District and Station	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	13th	14th	15th	16th	17th	18th	19th
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Bilaspur:																			
Sadar	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Ghumarwin	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Raghunathpura	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Bilaspur Obs.	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Chamba:																			
Chamba	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Ludra	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Chhatrari	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Bhandal	..	—	—	—	—	—	—	—	—	—	1.5	—	—	—	—	—	—	—	—
Chowari	..	—	—	—	—	—	—	—	—	—	6.0	—	—	—	—	—	—	—	—
Bathri	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kalathop	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Bharmour	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Tissa	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Bhanota	..	—	—	—	—	—	—	—	—	—	1.3	—	—	—	—	—	—	—	—
Kilar	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kangra:																			
Palampur	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Hamirpur	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Dehra	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kangra	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Dharamsala	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Nurpur	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Una	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kulu:																			
Kulu	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Ranjar	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kinnaur:																			
Kilba	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Sangla	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Purbani	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Nichar	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kaipa	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Lahaul and Spiti:																			
Keylong	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kaza	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Mahasu:																			
Rampur	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Rohru	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Jubbai	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Chopal	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Theog	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kumarsain	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Junga	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kasumpti	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Solan	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Arki	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Suni	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kotkhai	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Bashla	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Khadrata	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Shillaroo	..	—	—	—	—	—	—	—	—	—	2.5	—	—	—	—	—	—	—	—
Parala	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kotgarh	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Phancha	..	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Mashobra (Agromet)	..	—	—	—	—	—	—	—	—	—	4.2	—	—	—	—	—	—	—	—

PRDESH FOR THE MONTH OF DECEMBER, 1969

20th	21st	22nd	23rd	24th	25th	26th	27th	28th	29th	30th	31st	Number of rainy days	Normal No. of rainy days	Total rainfall for the month	Average rainfall for the month	Heaviest rainfall during the month	Total rainfall from 1-12-69 to 31-12-69	Normal rainfall from 1-12-69 to 31-12-69
21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39
—	—	—	—	—	—	—	—	—	—	—	—	—	2.3	—	28.7	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	2.8	—	37.4	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	Distt. Total Distt. Average	—	—	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	2.5	—	33.1	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	3.8	—	85.6	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	3.1	—	70.5	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	2.5	1.5	60.8	1.5	1.5	—
—	—	—	—	—	—	—	—	—	—	—	—	—	3.9	6.0	107.0	1.6	6.0	—
—	—	—	—	—	—	—	—	—	—	—	—	—	2.4	—	59.5	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	3.9	—	78.9	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	4.0	—	82.5	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	3.9	—	59.4	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	3.9	—	74.0	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	4.2	1.3	75.5	—	1.3	—
—	—	—	—	—	—	—	—	—	—	—	—	—	Distt. Total Distt. Average	1 4	8.8 0.8	— 75.4	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	N.A.	—	N.A.	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	N.A.	—	N.A.	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	N.A.	—	N.A.	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	N.A.	—	N.A.	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	N.A.	—	N.A.	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	N.A.	—	N.A.	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	N.A.	—	N.A.	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	Distt. Total Distt. Average	—	—	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	N.A.	—	N.A.	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	N.A.	—	N.A.	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	2.9	—	49.8	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	4.1	—	139.2	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	3.1	1.4	103.9	1.4	1.4	—
—	—	—	—	—	—	—	—	—	—	—	—	—	3.0	—	42.5	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	1	3.5	59.0	3.0	3.4	—
—	—	—	—	—	—	—	—	—	—	—	—	—	Distt. Total Distt. Average	1	4.8 0.9	— 78.9	—	4.8 0.9
—	—	—	—	—	—	—	—	—	—	—	—	—	N.A.	—	N.A.	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	N.A.	—	N.A.	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	Distt. Total Distt. Average	—	—	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	N.A.	—	N.A.	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	N.A.	—	N.A.	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	2.1	—	28.2	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	2.0	—	34.0	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	1.8	—	39.2	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	3.7	—	56.8	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	1.7	—	21.8	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	1.3	—	40.3	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	1.9	—	26.1	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	1.1	—	20.6	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	1.8	—	31.3	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	2.0	—	33.2	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	2.3	—	30.6	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	2.4	—	112.4	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	3.0	2.5	209.5	2.5	2.5	—
—	—	—	—	—	—	—	—	—	—	—	—	—	2.3	—	42.0	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	1.6	—	25.7	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	2.4	—	34.2	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	1	3.4	43.7	4.2	4.2	—
—	—	—	—	—	—	—	—	—	—	—	—	—	Distt. Total Distt. Average	2	6.7 0.3	— 48.8	—	6.7 0.3

[illegible]

